

STATEMENT OF OBJECTS AND REASONS.

THE object of this Bill is to remove disability and great hardship that has been created by the recent decisions of the Privy Council in *Abul Fata Mahomed Ishak and others v. Russomoy Dhur Chowdhry and others*, L. R. 22 Ind. Ap. 76 and other cases. The power of a Mussalman to make a settlement for or in favour of his family, children and descendants or what is known as wakf-alal-aulad to the Mussalman Law is paralysed.

In the case above cited it was held that under Mussalman Law a perpetual family settlement expressly made as wakf is not legal and valid merely because there is an ultimate gift to the poor and it confirmed the decision in *Ashunulla Chowdhry v. Amarchand Kundu*, reported in L. R. 17 Ind. Ap. 37, the principle of which was approved in a subsequent case of *Abdul Gufur v. Nizamudin*, L. R. 19 Ind. Ap. 170, where it was laid down that a gift is not good as wakf unless there is a substantial dedication of the property to charitable uses at some period of time or other.

The decision does not fix any limit of time, it simply says "some period of time or other". It does not define what is "substantial dedication". Thus it introduces the greatest uncertainty in the law, and is generally opposed to the true principles and correct exposition of the Mussalman jurisprudence. This Bill is intended only to reproduce the Mussalman law of wakf-alal-aulad in a codified form with certain safeguards for the authenticity of the wakfnama and for prevention of fraud upon creditors or otherwise.

It is not intended to codify or define the general Law of wakf which must be governed by the Mussalman Law. The Bill is a simple one and the important provisions are as follows :—

Clause 3—Defines the power of a person professing Mussalman faith to create wakf.

Clauses 4 and 5—Are intended to secure authenticity of wakfnama and prevent fraud upon creditors or otherwise.

Clause 10—Deals with testamentary wakf.

Clause 11—Deals with registration of wills and empowers the persons mentioned therein to have the will registered.

M. A. JINNAH,

The 15th March 1911.

J. M. MACPHERSON,
Secretary to the Government of India.
V B



The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, MARCH 25, 1911.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART V.

Bills introduced in the Council of the Governor General of India for making Laws and Regulations, Reports of Select Committees presented to the Council, and Bills published under Rule 23.

GOVERNMENT OF INDIA, LEGISLATIVE DEPARTMENT.

The following Report of the Select Committee on the Bill to consolidate and amend the law relating to the prevention of public meetings likely to promote sedition or to cause a disturbance of public tranquillity was presented to the Council of the Governor General of India for the purpose of making Laws and Regulations on the 20th March 1911:—

WE, the undersigned Members of the Select Committee to which the Bill to consolidate and amend the law relating to the prevention of public meetings likely to promote sedition or to cause a disturbance of public tranquillity was referred, have considered the Bill and have now the honour to submit this our Report, with the Bill as amended by us annexed thereto. The amendments which we have suggested are explained below.

2. *Clause 1, sub-clause (2).*—At present a notification under this sub-clause must extend to a whole province. We have inserted the words “or parts of Provinces” in order to enable the Government of India to limit future notifications to such parts of provinces as they may think fit.

3. *Clause 4, sub-clause (2).*—We have inserted words limiting the police-officers who may be deputed to attend meetings to such as are not below the rank of Head Constable.

4. *Clause 8* is new. We think that offences against the proposed Act should be triable only by a Presidency Magistrate or a Magistrate of the first class or Sub-divisional Magistrate.

5. The addition of a clause limiting the duration of the proposed Act was suggested by certain of our number, but as a majority of us were unable to accept this suggestion, it has not been adopted.

6. The publication ordered by the Council has been made as follows:—

In English.

Gazette,
Gazette of India

Date.
18th March 1911.

(109)

V A



The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, JANUARY 14, 1911.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART VI.

Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

PROCEEDINGS OF THE COUNCIL OF THE GOVERNOR GENERAL OF INDIA,
ASSEMBLED FOR THE PURPOSE OF MAKING LAWS AND REGULATIONS
UNDER THE PROVISIONS OF THE INDIAN COUNCILS ACTS,
1861 TO 1909 (24 & 25 VICT., c. 67, 55 & 56 VICT., c. 14,
AND 9 EDW. VII, c. 4).

The Council met at Government House, Calcutta, on Tuesday, the 3rd
January 1911.

PRESENT:

His Excellency BARON HARDINGE OF PENSHURST, P.C., G.C.B., G.C.M.G., G.C.V.O.,
G.M.S.I., G.M.I.E., Viceroy and Governor General of India, *presiding*,

and 60 Members, of whom 53 were Additional Members.

OATH OF OFFICE.

The following Additional Members, before taking their seats, made the prescribed oath or affirmation of allegiance to the Crown:—

The Hon'ble the Prince of Arcot.
The Hon'ble Mr. Monteath.
The Hon'ble Lieutenant-Colonel Davies.
The Hon'ble Mr. LeMesurier.
The Hon'ble Mr. Wood.
The Hon'ble Mr. Porter.
The Hon'ble Mr. Fremantle.
The Hon'ble Mr. Graves.
The Hon'ble Mr. Birkmyre.

PRESIDENT'S OPENING REMARKS.

His Excellency THE PRESIDENT said:—"Your Honour and gentlemen, as this is the first occasion on which I have been called to preside over this Council, I should like to say how much I appreciate the honour and how deeply I feel the heavy responsibility that it entails.

"It is to me a source of sincere satisfaction that I am called upon to preside over the reformed Legislative Council, of which the merit is, I believe, largely due to the wisdom of my predecessor, Lord Minto. The extension of the elective

[3RD JANUARY 1911.] [*Mr. Butler; Mr. Dadabhoy; Mr. Carlyle; Mr. Robertson; Mr. Madge; Sir G. F. Wilson; Mr. Monteath.*]

The Hon'ble MR. BUTLER replied :—

“Mr. Collin's Report will be found at page 188 and the following pages of the Selection of Papers, published in 1906, relating to Technical Education in India, 1886—1904, copies of which can be obtained from the Superintendent, Government Printing, India.”

The Hon'ble MR. DADABHOY asked :—

“Has Government received an Irrigation Project for the District of Balaghat in the Central Provinces known as the Weinganga Project? Is the total estimated cost under seventy-five lakhs of rupees? Has it been sanctioned by Government? Is it the intention of Government to provide next year for its execution?”

The Hon'ble MR. CARLYLE replied :—

“The Weinganga project was received from the Local Administration on the 12th December, 1910, and is now being examined. Its cost is estimated by the Local Administration at Rs. 36,88,045 for direct charges only and at Rs. 38,03,204 including indirect charges. Until it has been approved by the Government of India and sanctioned by the Secretary of State it would be premature to say when its execution will be commenced.”

The Hon'ble MR. DADABHOY asked :—

“Is it true that the Japanese Government has manufacturing departments with the object of pioneering industries? Has the experiment been successful? If so, will this Government be pleased to try it for the introduction of new industries in India?”

The Hon'ble MR. ROBERTSON replied :—

“The Government of India have no knowledge of the establishment by the Japanese Government of manufacturing departments with the object of pioneering industries.

“As regards the last part of the question, efforts have in the past been made by Government to demonstrate, by State manufacture, the commercial merits of particular industries, for example, the aluminium and chrome leather industries. In view, however, of the strong protests received from the commercial public on the ground of possible competition of such ventures with private undertakings, and in pursuance of the policy which has recently been laid down by the Secretary of State with regard to the whole question of State assistance to the industrial progress of the country, the Government of India are not at present prepared to undertake experiments in this direction.”

The Hon'ble MR. MADGE asked :—

“Will the Government be so pleased as to state whether all the places in the Enrolled List of the Financial (Accounts) Department that may under the existing rules be held by members of the domiciled community have been filled by members of that community; and, if not, whether any vacancies of the class referred to remain unfilled because no suitable recommendations for them have been made by competent authority?”

The Hon'ble SIR GUY FLEETWOOD WILSON replied :—

“I would refer the Hon'ble Member to the reply which I gave to him on this subject on the 29th of March last. There are no appointments in the Finance Department specially reserved for members of the domiciled community. Such candidates are appointed either after competition or by nomination; and several of them have been recruited in this manner.”

The Hon'ble MR. MONTEATH asked :—

“Is it a fact that considerable cotton grain seeds traffic comes from Aligarh, Chandausi and Moradabad Districts to Bombay?”

“Has the attention of Government been drawn to the fact that Bombay is at present suffering through the absence of a shorter route, and the difficulties of blocking rates, supply of rolling stock and delays of wagons?”

“Will the Government be pleased to state whether it intends to set aside the question of the extension of the Nagda-Muttra line to Aligarh, and, if so,

[*Mr. Monteath ; Sir T. R. Wynne ; Mr. N. Subba Rao.*] [3RD JANUARY 1911.]

for what reasons? Will the Government be further pleased to state whether there is any objection to such extension other than that the East Indian Railway might ask for retaliatory measures?"

The Hon'ble SIR T. R. WYNNE replied :—

"On the authority of the statement made in the Bombay Chamber of Commerce's letter No. 827, dated the 25th September 1909, to the Government of Bombay, it may be accepted as a fact that a considerable trade in cotton-grain and seeds is now drawn from Aligarh, Chandausi and Moradabad Districts to Bombay.

"The attention of Government has been drawn to the statement made by the Bombay Chamber of Commerce that Bombay was suffering through the absence of a shorter route, the difficulties of blocking rates, the supply of rolling stock and delays in wagons, and that all these difficulties would be removed if one of the Bombay Railways constructed a line connecting Muttra with Aligarh.

"But in light of the admission by the Chamber that a considerable trade with Bombay from the districts referred to was being carried on, the inference is that the difficulties complained of were not practically very serious, and taking the claims of Calcutta into consideration it was probable that Bombay was receiving its fair share of the traffic.

"As at present advised, the Government of India are not prepared to permit one of the Railways, whose head-quarters are in Bombay, to construct a line from Muttra to Aligarh. If the line is eventually constructed, it will be by some other agency.

"Their reasons for this decision are :—

- (1) That the construction of this line will practically cause no difference in the distances between Aligarh and Bombay by existing routes when the lengths of the present routes are compared.
- (2) That a broad gauge line has been provided for in next year's programme from Biana, a station on the Nagda-Muttra Railway, to Agra, and this will afford a through broad gauge route from Aligarh to Bombay and avoid transshipment. The construction of this line will be put in hand at once.
- (3) That although the objective is apparently only Aligarh, the practical effect of allowing a Bombay Railway to extend there would be to give them access to the whole of the northern area served by the Oudh and Rohilkhand and other Railways and cause a very severe dislocation of existing trade interests centering in Calcutta and other parts of India. The Government of India are not prepared to agree to take any steps which would produce the war of rates and measures of retaliation, which would certainly follow if a Bombay Railway extended to Aligarh, and consider the considerable trade which Bombay now admits it is drawing as a fair share of the traffic of the area it wishes to invade."

The Hon'ble MR. N. SUBBA RAO asked :—

"(a) Will Government be pleased to state whether the proposed contract with the South Indian Railway Company has been entered into by the Secretary of State?

"(b) Is it a fact that under clauses 8 and 9 of the said contract District Boards and other Agencies are placed at a great disadvantage in the construction of short circuit lines and branch lines, and that the principles embodied in the said clauses are likely to cause serious injury to District Boards in undertaking new lines and retard further railway development in Southern India?

"(c) Will Government be pleased to lay on the table a copy of the contract as finally agreed to and correspondence on the subject between the Madras Government, the Government of India and the Secretary of State?"

[3RD JANUARY 1911.] [*Sir T. R. Wynne ; Rao Bahadur R. N. Mudholkar ; Mr. Robertson ; Mr. Butler.*]

The Hon'ble SIR T. R. WYNNE replied :—

“ The answers to the questions are—

“ To (a) that the actual contract in legal form has not yet been finally signed by the Secretary of State and the South Indian Railway Company, but the general principles on which the contract is to be framed have been duly agreed to by both parties finally.

“ As regards (b) Government are not in a position to express an opinion on the points raised by the Hon'ble Member. I may point out that the new contract only came into force on the first of this month.

“ To (c) it is not usual to make public the papers which, it is asked, should be laid on the table.”

The Hon'ble RAO BAHADUR R. N. MUDHOLKAR asked :—

“ (a) Has the attention of Government been drawn to the fact that various articles prepared in foreign countries and imported into India bear misleading descriptions, impressions or marks, calculated to cause the belief among purchasers and consumers that they were made in India ?

“ (b) Will Government be pleased to state whether such procedure is not opposed to the principles and provisions of the Sea Customs Act and the Merchandise Marks Act and the rules thereunder, and whether steps should not be taken, by legislation if necessary, to prevent misleading descriptions or impressions ?”

The Hon'ble MR. ROBERTSON replied :—

“ The Government of India are aware that attempts have from time to time been made to import into India articles made in foreign countries and bearing false trade descriptions calculated to cause the belief that they were made in India. The importation of such articles is prohibited by the Indian Merchandise Marks Act and the Sea Customs Act, and action is taken against the practice by the Customs-authorities at the various ports. The provisions of these Acts appear to the Government of India to be adequate for preventing the entry of such goods.”

The Hon'ble RAO BAHADUR R. N. MUDHOLKAR asked :—

“ Will Government be pleased to take into consideration the suggestion made in Resolution I passed at the Indian Industrial Conference held at Madras in December 1908, recommending the formation in each Province of an Advisory Board consisting of qualified officials and non-officials to advise the Local Government in regard to the introduction of new or development of existing industries, the carrying out of investigations and experiments with a view to such action, and the measures to be taken from time to time for promoting technical and industrial education suited to the resources and condition of the Province ?”

The Hon'ble MR. BUTLER replied :—

“ The appointment of Advisory Boards has been recommended in four Provinces—Madras, the United Provinces, Eastern Bengal and Assam and the Central Provinces—and the recommendation has been accepted by the Local Governments concerned. The matter is primarily one for Local Governments, who are interesting themselves in it.”

The Hon'ble RAO BAHADUR R. N. MUDHOLKAR asked :—

“ (a) Will Government be pleased to state what are the opinions elicited in the inquiries made some years ago about the feasibility and desirability of standardization and unification of weights and measures in this country ?

“ (b) Are there any serious difficulties in the way of action in this matter ?”

The Hon'ble MR. ROBERTSON replied :—

“ On a proposal for the unification of weights and measures in the Bombay Presidency being submitted to them by the Local Government, the Government of India, in January 1890, requested Local Governments and Administrations to submit information regarding the different weights and measures in use in the several Provinces, and to state their opinion as to the best system of weights and measures capable of being generally adopted, and the steps which should be taken to provide for its general application. Subsequently they

[*Mr. Robertson ; Rao Bahadur R. N. Mudholkar ; [3RD JANUARY 1911.]*
Sir T. R. Wynne ; Mr. Sachchidananda Sinha.]

forwarded for the consideration of Local Governments a scheme which had been suggested to them for the assimilation of English and Indian standards of weight by the adoption of a scale of weights based on a tola of 175 grains, which would have made a seer of 80 tolas exactly the equivalent of 2 pounds avoirdupois.

"The inquiries made by Local Governments showed that throughout India proper the tola of 180 grains was used almost everywhere as the basis of weighments. This was exactly the weight of a rupee, and in fact the papers showed that the rupee was largely used in weighing retail transactions. The scheme was objected to on the ground that the reduction of the tola from 180 to 175 grains would practically involve a corresponding reduction in the weight of the rupee, to which there were strong financial and other objections.

"As regards the general question of the introduction of a uniform system of weights and measures, there was much difference of opinion as to the advisability of taking such a course. The majority of Local Governments were opposed to the immediate prescription of weights and measures by law; they were of opinion that action in this matter should be taken gradually, the important municipalities taking the lead.

"As regards the last part of the question, I may point out that in a country where a variety of weights and measures is in use, the prescription of a system of weights and measures differing from those sanctioned by local custom is likely to occasion serious disturbance of existing conditions. It would also be extremely difficult to fix weights and measures which would be generally suitable; and even if it were possible to devise suitable standards, it would not be an easy matter to secure their adoption without recourse to measures of compulsion which would be undesirable in the circumstances of India."

The Hon'ble RAO BAHADUR R. N. MUDHOLKAR asked :—

"Is it a fact that the importance and remunerative character of the Basim-Akola Railway has been admitted and recognised for more than twenty years, and the earthwork over a considerable portion of which was done nearly fourteen years ago has not been taken up? If so, will Government be pleased to state why the said Railway project has not been taken up?"

The Hon'ble SIR T. R. WYNNE replied :—

"The Government of India are aware of the importance of the Akola-Basim Railway, and it is a project which is well forward in the list of lines to be undertaken at as early a date as funds permit."

The Hon'ble RAO BAHADUR R. N. MUDHOLKAR asked :—

"Now that the section between Shegaon and Nagpur is to be doubled, will Government be pleased to consider the desirability of taking the main line through Amraoti and so avoid the inconvenience of such an important town being on a short branch?"

The Hon'ble SIR T. R. WYNNE replied :—

"The Government of India have no objection to this suggestion being considered, but it must be pointed out that the change proposed would involve the abandonment of Badnera as an engine-changing station and all the works and staff buildings now in use there and the creation of a new engine-changing station at Amraoti.

"The interests of the residents of Badnera would also have to be considered."

The Hon'ble MR. SACHCHIDANANDA SINHA asked :—

"(a) Are the Government aware of the intense dissatisfaction caused amongst the bulk of the Hindu community by the publication of the Census Commissioner's circular in regard to the classification of their lower classes, and that public feeling has not been allayed by the issue of the communiqués on the subject?"

"(b) Will the Government be pleased to state if the said circular was issued in compliance with the wishes expressed by any of the classes proposed to be classified on the new lines? If so, which, when and where?"

"(c) Is the proposed 'new classification'—or 'tabulation' as suggested in the communiqué—intended to serve any practical purpose in matters of administration or legislation; or whether it is being undertaken purely in the interest of scientific research?"

[3RD JANUARY 1911.] [*Mr. Sachchidananda Sinha; Mr. Butler; Mr. Jenkins.*]

"(d) If the object of the new scheme be the former, will the Government be pleased to state how and in what directions it is regarded as calculated to serve the end in view?

"(e) If the object of the new scheme be the latter, will the Government be graciously pleased to direct that the result of the forthcoming Census, in this particular matter, be classified and tabulated in strict conformity with the lines adopted at the last Census and that no departure be made therefrom?"

The Hon'ble MR. BUTLER replied :—

"(a) The Government of India are aware that the circular in question aroused hostile comment; but this was due to a misapprehension. It was thought that the circular contained instructions to exclude certain classes from the category of Hindus; but this was never intended. The Census Commissioner has already issued a communiqué explaining that the statements of all persons as to their religion will be accepted without demur, and that they will be classified accordingly in the Census Tables. It was never proposed to alter in any way the procedure followed in this respect at previous Censuses. The object of the circular was to consult Provincial Census Superintendents as to the feasibility of framing an estimate of the number of persons classed as Hindus who are not ordinarily regarded as such, and what standards should be adopted for the purpose. The circular contained no definite orders, nor will any decision be arrived at by the Census Commissioner until all the replies have been received and considered, together with the comments which have been made in the newspapers and elsewhere.

"The Government of India believe that any dissatisfaction caused by a misapprehension of the Census Commissioner's original proposal has been allayed by the issue of the communiqué alluded to.

"As regards sub-section (b) the question has not been raised by any of the classes concerned.

"(c) and (d). The object of the circular was to throw light on the statistics. It is clearly desirable that their precise bearing and signification should be explained.

"(e) As already stated, no change in the system of classification and tabulation is proposed."

The Hon'ble MR. SACHCHIDANANDA SINHA asked :—

"Replying to a letter of the Anglo-Indian Association (dated the 9th March 1910), the Officiating Chief Secretary to the Government of the Lower Provinces in his letter (published in the papers) is alleged to have written that 'the Government of India has no objection to Government servants being members of the Anglo-Indian Association or serving on its Council, provided that if the Association actively engages in any political movement, members or office bearers who are Government servants shall abstain from taking part in it.'

(a) Will the Government be pleased to state if that is a correct reproduction or interpretation of their order?

(b) If so, will the Government be pleased to state if orders to the same effect have been or will be issued in favour of all other Government servants, granting them permission to join as members and act as office bearers of recognised political associations with the same limitation as that placed in the case of the Anglo-Indian Association?"

The Hon'ble MR. JENKINS replied :—

"(a) The answer to the first part of the question is in the affirmative.

"(b) No orders of a similar character have been issued, but, if any other reference of a like nature is made by a Local Government, the Government of India will consider it on its merits."

The Hon'ble MR. SACHCHIDANANDA SINHA asked :—

"In reply to a question put in the Lower Provinces Council on the 28th February last, requesting the publication of the Hon'ble Mr. Gourlay's Report on the Bettiah disturbances of 1908, the Hon'ble Mr. Duke said that the Report was to be submitted, in due course, to the Government of India, and, that pending the receipt of the orders of that Government, the question of its publication could not be discussed.

(a) Will the Government be pleased to state whether they have received from the Government of the Lower Provinces the said Report and considered the same?

[*Mr. Sachchidananda Sinha; Mr. Jenkins.*] [3RD JANUARY 1911.]

(b) If so, will the Government be pleased to declare what steps they have either taken or propose to take in the matter?

(c) Will the Government be pleased, in view of the public interests involved, either to publish the said Report or to direct that it may be published?"

The Hon'ble MR. JENKINS replied :—

"The Government of India duly received from the Government of Bengal a report on the disturbances in the Champaran District which occurred in 1908. As the correspondence with the Local Government shows that the Lieutenant-Governor has taken steps which, in the opinion of the Government of India, are calculated to remove the grievances which appear to have afforded the occasion for these disturbances, they propose to take no action in the matter. The Government of India do not propose to publish their correspondence with the Government of Bengal on the subject."

The Hon'ble MR. SINHA : "My question, my Lord, was not about the correspondence between the Government of India and the Government of the Lower Provinces, but about the publication of the Report, and I venture to ask if there is any harm in the publication of Mr. Gourlay's Report."

The Hon'ble MR. JENKINS : "The Report is an essential part of the correspondence, and I am afraid we must adhere to our decision not to publish it."

The Hon'ble MR. SACHCHIDANANDA SINHA asked :—

"Has the attention of Government been called to the widespread dissatisfaction with many features of the present Regulations for election to the Imperial and several Provincial Legislative Councils and the declarations of the late Secretary of State and the late Viceroy that the Regulations would be modified in the light of experience?"

"Will the Government be pleased to consider the desirability of revising the Regulations, and to state whether they will appoint Provincial Committees of qualified representatives of the different classes of the people and the several interests together with officials to investigate the changes needed, and make recommendations accordingly, and a similar Committee to revise the Regulations concerning the Imperial Legislative Council?"

The Hon'ble MR. JENKINS replied :—

"The Government of India are aware that dissatisfaction has been expressed by members of certain classes of the community with some of the features of the present Regulations for election to the Imperial and Provincial Legislative Councils. They are not, however, aware that any such general dissatisfaction has been expressed as is implied in the question of the Hon'ble Member."

"The Government of India in publishing the Reforms Scheme expressly stated that many of the details of the scheme might be found on trial to be unsatisfactory or capable of improvement, and that experience alone could show how far methods which were new to India could give the different classes and interests a measure of representation proportionate to their importance and influence, and to what extent an untried electoral machinery was suitable to the varying circumstances of the different Provinces and the numerous electorates. They added that defects would no doubt be discovered in the Regulations when they were put into operation, and that, if this proved to be the case, the law admitted of their amendment without difficulty. The late Secretary of State and the late Viceroy made similar observations."

"The Government of India have already called for reports from all Local Governments on the working of the Regulations and have invited suggestions, in the light of experience, as to any points in which they appear to call for revision. The reports of two Local Governments are still awaited. It is impossible for the Government of India at this stage to give any undertaking as to the measures which will be adopted to deal with the revision of the Regulations, should the reports of Local Governments show that it is needed: that will necessarily depend upon the nature of the revision which may be required."

The Hon'ble MR. SACHCHIDANANDA SINHA asked :—

"(a) Will the Government be pleased to say if their attention has been drawn to the Resolutions passed by the Government Industrial Conference at Ootacamund in 1908, the third, the fourth and the fifth Indian Industrial Conferences, the third South Indian Industrial Conference and the third and

[3RD JANUARY 1911.]

[*Mr. Sachchidananda Sinha ; Sir T. R. Wynne.*]

fourth United Provinces Industrial Conference, to the effect that existing railway rates on goods are generally excessive and affect injuriously indigenous industries in their competition with imported goods, and that Government may make an inquiry into the whole subject and obtain a reduction of the rates wherever these may be proved to be too heavy.

“(b) Is it a fact that the Governments of the United Provinces and Madras have addressed the Government of India on the subject? Have any other Provincial Governments done the same? Will the Government be pleased to lay such report on the table with the replies thereto?”

“(c) What action, if any, do the Government intend taking in the direction suggested, if none has already been taken?”

The Hon'ble SIR T. R. WYNNE replied :—

“The reply to question (a) is that copies of the Resolutions referred to have been received by the Government of India except those of the third South Indian Railway Conference, and the fourth United Provinces Industrial Conference.

“In reply to question (b) the United Provinces Government have addressed the Government of India on the subject and the correspondence will be laid on the table, and it will show that the Railway Board have impressed it on the Railways that the subject is one that deserves their very careful consideration.

“The Government of Madras have not addressed the Government of India on this subject, and there are no papers to show that any other Local Government has done so.

“The answer to question (c) is that the subject is not one that can be dealt with by an inquiry, because in the first instance Government is not prepared to agree off-hand to the statement that existing railway rates on goods of indigenous origin are generally excessive, and secondly because no general conclusion could be come to which would assist in deciding what rates should be charged for indigenous commodities as compared with the rates for imported goods, as the Railway Act does not admit of any distinction being made between these two classes of goods in the charges that may be made for their carriage.

“The Railway Act lays down that there shall be no undue preference, and this applies as much to indigenous goods desirous of ousting imported goods as to imported goods competing with indigenous. Railways under the Act cannot quote preferential rates for indigenous commodities and prohibitive rates for imported goods.

“Starting with the proposition that a producer requires certain railway rates to be charged to him to enable him to do business before a railway can agree to quote these rates, it has to determine if it can make any profit out of them and what the quotation involves in other directions, as it may affect other interests and also other producers of the same commodity in other districts.

“The only way in which such rates can be arrived at is to deal with each rate for each commodity as a separate proposition and examine carefully the many complications which arise due to the conditions under which it has to compete, the other interests affected and the value of the trade to the railway. The quotation of railway rates in fact is a very complex one, involving very many considerations, and often extremely difficult to deal with owing to conflicting interests.

“In light of these remarks the Government of India would not be justified in taking action in the direction desired, as the fixing of rates which should be sufficiently low to develop a trade is a matter concerning which the trader should, in the first instance, deal direct with the Railway Administrations concerned.

“As President of the Railway Board I feel justified, however, in saying that a railway is as anxious to secure new traffic to carry as a producer is to have it carried; and I feel sure that direct references by producers to Railway Administrations will, as a rule, secure a reduced rate for local industries if the existing

[*Sir T. R. Wynne ; Mr. Sachchidananda Sinha ; Mr. Carlyle ; Mr. Butler.*] [3RD JANUARY 1911.]

rate is too high to enable business to be done, provided the railways can make some profit out of the reduced rate desired, which also must not render them liable to a charge of undue preference.

" But it must be appreciated that it is not the duty of railways to foster an industry which cannot be profitably carried on except at a permanent loss to the railway carrying its products. In such circumstances it is obvious that the proposed industry is not one that can be carried on under ordinary commercial conditions and is of a character which would not justify the Government of India using its influence to secure for it special treatment, even if this could be done without undue preference."

The Hon'ble MR. SACHCHIDANANDA SINHA asked :—

" Will the Government be pleased to state the present stage of the discussion regarding the establishment of Agricultural Banks ? What progress has been made with the scheme for the establishment of such a Bank in Bombay, which has been put forward by the Hon'ble Sir Vithaldas Thackersey and the Hon'ble Mr. Lalubhai Samaldas and is believed to have been accepted by the Secretary of State ? "

The Hon'ble MR. CARLYLE replied :—

" The Government of India have from time to time had under discussion schemes for the establishment of State-aided Agricultural Banks in India, but they have not hitherto been able to accept the schemes for the establishment of such Banks which have been laid before them, and the only proposals of the kind which are now under consideration are those for the creation of the Bank in Bombay which is referred to by the Hon'ble Member. The scheme in question has not been accepted in its entirety by the Secretary of State and negotiations regarding it are still pending."

The Hon'ble MR. SACHCHIDANANDA SINHA asked :—

" Will the Government be pleased to say if an amendment of the Co-operative Credit Societies Act is under consideration ? If so, when an amendment Bill may be expected, and what are the principal changes that are to be introduced in the existing Act ? "

The Hon'ble MR. CARLYLE replied :—

" The Government of India have had under consideration the amendment of the Co-operative Credit Societies Act. Their proposals having been referred to the Secretary of State, I am not in a position at present to indicate the changes contemplated, but it is hoped that a Bill may be introduced and published either at the end of this month or in March next."

The Hon'ble MR. SACHCHIDANANDA SINHA asked :—

" Will the Government be pleased to say (a) whether the modified scheme for the establishment of a Technological Institute at Cawnpore, which has been submitted by the United Provinces Government, has been accepted by the Government of India and forwarded for the sanction of the Secretary of State ? And (b) whether the Local Government has expressed its inability to provide for its cost, and, if so, will the Government be pleased to help it to give effect to the scheme ? "

The Hon'ble MR. BUTLER replied :—

" The modified scheme for the establishment of a Technological Institute at Cawnpore, which has been submitted by the United Provinces Government, has been accepted by the Government of India, who are considering the extent to which financial aid can be given to the scheme from Imperial revenues. The Secretary of State will shortly be addressed on the subject."

The Hon'ble MR. SACHCHIDANANDA SINHA asked :—

" Will the Government be pleased to lay on the table a comparative return showing the number of raids committed in the North-West Frontier Province in the years 1909 and 1910, the approximate value of the property looted and the number of men held to ransom with a statement of their nationality as well as the number of villages raided in these years respectively ? "

[3RD JANUARY 1911.] [Mr. Wood; Mr. Sachchidananda Sinha; Mr. Jenkins; Mr. Monteath; Sir Guy Fleetwood Wilson.]

The Hon'ble MR. WOOD replied :—

“The return is being compiled and will be laid on the table as soon as possible.”

The Hon'ble MR. SACHCHIDANANDA SINHA asked :—

“Since the creation of the North-West Frontier Province, were any Hindu-Mussalman riots reported in Peshawar City, before the one that took place in March last?”

The Hon'ble MR. WOOD replied :—

“The answer to the Hon'ble Member's question is in the negative.”

The Hon'ble MR. SACHCHIDANANDA SINHA asked :—

“Will the Government be pleased to state how the North-West Frontier Province Administration propose to allot the incidence of Rs. 5,000 for the maintenance of punitive police in Peshawar City for a year?”

The Hon'ble MR. WOOD replied :—

“The cost of the police post in question is Rs. 4,000 a month and not Rs. 5,000 as stated by the Hon'ble Member. The question of the allotment of the incidence of the charge is still under consideration.”

The Hon'ble MR. SACHCHIDANANDA SINHA asked :—

“(a) Has the attention of the Government been drawn to the statement appearing in some of the Punjab papers that *Afghan*—a vernacular paper published at Peshawar—is in receipt of an annual subsidy from the Local Administration?”

“(b) Is it a fact that articles have appeared in that paper calculated to embitter feelings between the Hindus and the Mussulmans?”

The Hon'ble MR. JENKINS replied :—

“The answers to the questions are as follows :—

(a) The Government of India have noticed the report alluded to. They understand that the North-West Frontier Administration subscribe for a certain number of copies of the *Afghan* newspaper.

(b) The Government of India have no information as to whether any articles in the newspaper in question have been calculated to operate in the manner suggested; but they will ask the Local Administration to look into the matter.”

The Hon'ble MR. SACHCHIDANANDA SINHA : “May I know how many copies have been subscribed for by the North-West Frontier Province Administration?”

The Hon'ble MR. JENKINS : “We have no information as to that. I believe the subsidy amounts to some Rs. 800 a year.”

The Hon'ble MR. SINHA : “My Lord, the last question which stands in my name I defer for to-day. With reference to the conversation which I had with His Excellency the Commander-in-Chief, I withdraw it for the time being.”

The Hon'ble MR. MONTEATH asked :—

“In view of the policy advocated by public bodies, will Government be pleased to state (1) if they intend to increase the actual holdings of gold in the Gold Standard Reserve, and (2) if such holdings are likely to be kept in this country?”

The Hon'ble SIR GUY FLEETWOOD WILSON replied :—

“I can only refer my Hon'ble friend to what I said on this subject in last year's Financial Statement. There has been no change in the position since then; and I do not at present anticipate that any addition will be made to the holding of gold in the Gold Standard Reserve or that any part of it will be kept in India.”

[*Rao Bahadur R. N. Mudholkar; Sir T. R. Wynne; [3RD JANUARY 1911.]*
Mr. Robertson.]

The Hon'ble RAO BAHADUR R. N. MUDHOLKAR asked :—

“(a) Are Government aware of the complaint in certain manufacturing and trading circles that the rates for the carriage of goods on Indian railways are, in view of the circumstances of the country, excessive, and press unequally and differentially on the same articles according as they are consigned from or to coasting towns or to interprovincial destinations ?

“(b) Will Government be pleased to direct an inquiry to be made in regard to this matter, and if the complaints appear to be well founded to take steps for removing the same ?”

The Hon'ble SIR T. R. WYNNE replied :—

“The Government of India do not agree that the rates for the carriage of goods on Indian Railways are, in view of the circumstances of the country, excessive. The rates which railways may charge are controlled by the maxima and minima rates fixed by the Government of India for each commodity, and railways may only make such changes as come within these limits.

“When fixing the maximum rate for any commodity Government take into consideration the value of the commodity in question and the volume of the traffic in it, and on these considerations they base their decision. The minimum rate is fixed on the basis of being a rate which will not entail traffic being carried at a loss and so avoid laying on the taxpayer the burden of paying for the loss that would result in the shape of interest charges being in excess of net revenue.

“With regard to the second part of the question, *viz.*, that rates press unequally and differentially on the same articles, according as they are consigned from or to coasting towns or to interprovincial destinations, the Government of India are not prepared to admit that there are good grounds for the complaint.

“Railways being commercial undertakings have to be worked commercially, and one of the best known principles of business is that for a large steady business you are prepared to make reductions in price.

“Traffic from and to coasting towns is, as a rule, a big traffic carried a long distance with full loads, whereas interprovincial traffic or, as it is generally termed, *local* traffic, is comparatively small in tonnage, the distance carried is generally short and consignments do not readily run to wagon loads.

“Under these conditions the cost to railways of the carriage of goods to and from coast ports is much less than it costs them to deal with local traffic, and consequently there must be a difference in the rates charged.

“At the same time I feel justified in saying that Railway Administrations are ready to consider favourably any representations that may be made to them of cases in which local rates are considered to be too high, to enable a particular business to expand, for the simple reason that it is in the railway's own interest to encourage the development of traffic.

“It may be added that in no country in the world do railways make the same charges for the carriage of articles carried under different conditions, circumstances and distances, and the steady development of the trade of India would appear to be a fair indication that the railway rates generally charged are such as trade can reasonably afford to pay.

“Taking Indian railways as a whole, the average rate at which traffic is carried is the lowest in the world, and as a further indication that the rates charged are consistent with a fair return on capital, it is interesting to note that the net return on Indian railway capital expenditure was only 4.33 in 1908 and 4.81 in 1909, working expenses comparing very favourably with those of Railways in other countries.

“For these reasons the Government of India do not think it necessary to grant the inquiry asked for.”

INDENTURED EMIGRATION TO NATAL.

The Hon'ble MR. ROBERTSON said :—“With Your Excellency's permission I rise to make a statement on the subject of indentured emigration to Natal.

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"The Council will remember that in July last a Bill was passed empowering the Governor General in Council to discontinue emigration to any country to which emigration is lawful, if he has reason to believe that sufficient grounds exist for prohibiting such emigration. The Governor General in Council has had under his consideration the question of discontinuing indentured emigration to Natal, and he has arrived at the decision that emigration to that country should no longer be permitted.

"The decision has been taken in view of the unsatisfactory position which has been created by the divergence between the Indians' and the Colonists' standpoints and by the absence of any guarantee that Indians will be accepted as permanent citizens of the South African Union after expiration of their indentures. In all the circumstances the Governor General in Council is satisfied that emigration to Natal should be discontinued as he cannot allow the present unsatisfactory situation to be perpetuated. He therefore proposes to publish a notification on the 1st April next prohibiting indentured emigration to Natal with effect from the 1st July 1911."

The Hon'ble MR. GOKHALE said :—"My Lord, I am sure the Council has listened with the utmost satisfaction to the statement made by the Hon'ble Mr. Robertson, and I trust Your Excellency will permit me to express on behalf of the non-official members our sense of deep gratitude for the decision at which the Government of India have arrived in this most important matter. The announcement made today by the Hon'ble Member will evoke but one feeling throughout this country, and it will be a feeling of sincere and enthusiastic appreciation. The decision of the Government removes from the difficult question of the treatment of Indians in South Africa an important factor which was responsible for much soreness of feeling. It also does more. It furnishes to my countrymen a striking object lesson of the manner in which the Government will not hesitate to take any action that has become necessary in furtherance of our interests and for the assertion of our self-respect, even when it involves inconvenience and possible injury to the interests of a self-governing English colony. My Lord, I heartily congratulate the Government on the step which they have taken."

INDIAN FACTORIES BILL.

The Hon'ble MR. ROBERTSON moved that the Bill to consolidate and amend the Law regulating labour in Factories be referred to a Select Committee consisting of the Hon'ble Mr. Clark, the Hon'ble Mr. Syed Ali Imam, the Hon'ble Mr. Graham, the Hon'ble Mr. Dadabhoy, the Hon'ble Mr. Gokhale, the Hon'ble Sir Vithaldas Thackersey, the Hon'ble Mr. Andrew, the Hon'ble Mr. Quin, the Hon'ble Mr. Gates, the Hon'ble Mr. Phillips, the Hon'ble Sir Sassoon David, the Hon'ble Mr. Macpherson, the Hon'ble Mr. Fremantle, the Hon'ble Mr. Mudholkar, the Hon'ble Mr. Birkmyre and the mover. He said :—"I think, my Lord, that at this stage I need not take up the time of Council with any lengthy statement on this Bill, the history of which will be familiar to the greater number of Hon'ble Members present. When the late Mr. Harvey introduced this measure in July 1909, he explained in full detail the successive steps which had led up to it and the principles on which the proposed legislation was based ; and I scarcely think that I can add anything to the argument which he laid before Council with such completeness and lucidity. Since that time every opportunity has been given for the fullest criticism of the Bill. It was printed and published as soon as possible after its introduction, and has been circulated to Local Governments in order that it might be brought to the notice of owners of mills and factories throughout the country. Criticisms, comments and suggestions in considerable numbers have been received in reply, all of which have been printed and are in the hands of Hon'ble Members. The Government of India have given these suggestions their most careful consideration. Some of them they are able to adopt, and amendments with that object will be moved on behalf of Government in Select Committee. But I ought to say at once that nothing since the Bill

[*Mr. Robertson; Sir Sassoon David.*] [3RD JANUARY 1911.]

was introduced has been brought to the notice of Government which could lead them to reconsider the decisions already arrived at on important points of principle, such as the proposed restriction of hours of labour of male adults in textile factories. Those provisions of the Bill we must maintain; but it is our earnest desire and intention that, given the attainment of these essential objects, no unnecessary burden should be placed upon the industries concerned, and I can assure Hon'ble Members that with this aim in view we have examined the suggestions made to us in a sympathetic spirit and with a real wish to meet them whenever possible. We shall gladly welcome in Committee suggestions which will help us to attain this end. In selecting the names of Hon'ble Members who have been invited to serve on the Committee, we have been careful to secure a strong representation of the factory interests involved, and I am sure the Hon'ble Members in question, whatever their views on the main provisions of the Bill, will co-operate loyally with Government in their desire to save the industries concerned from any unnecessary friction and expense.

"One other point I may mention. There will be a considerable number of Government amendments to be moved in Committee, partly to meet representations made to us, partly on purely drafting matters, and we propose to have them printed and placed in the hands of Members of the Committee before it meets. Such a course will, I think, be to the convenience of the Hon'ble Members concerned, and it will certainly be a great assistance to Government if they in their turn could follow the same practice, and give as early notice as they can of any amendment they may wish to propose. I hope they may be able to meet us in this matter."

The Hon'ble SIR SASSOON DAVID said:—"My Lord, I am glad to see that the Bill has been referred to Select Committee; but I crave Your Lordship's permission to offer a few remarks on the Bill before the Council. I have very carefully considered the provisions of the Bill, which was introduced into the Council by the late Mr. Harvey, and am glad to say that I am able to give it my full support except in respect of one important proposal, namely, the proposal to restrict the hours of adult male labour by legislation.

"My Lord, I contend, in the first place, that no case whatever has been made out in favour of the proposed restrictions of the working hours of mill-hands. The report of the last Factory Commission conclusively showed that the cry of sweating in cotton-mills was unfounded, and that the operatives had not suffered in any way on account of overwork. So far as the actual state of things at the present day is concerned, there is no need for a law restricting the working hours of labourers.

"The Factory Commissioners were of opinion that there was only one class of labourers who were likely to be injuriously affected by such occasional long hours as prevailed in some Bombay factories during the exceptional days of 1905, and that was the class of persons between 14 and 17 years of age. They accordingly proposed to constitute such persons into a separate class, called 'the young persons' class, and to restrict their hours to twelve. But the Bill before us makes no distinction whatever between 'young persons' and adults. It puts them on the same footing, and extends the limitation proposed by the Commission for 'young persons' only to adults also.

"I venture to think that such an extension should be supported by weightier arguments than those by which the late Mr. Harvey supported it. It must be shown that the adults are likely to suffer to the same extent as young persons, and it must further be shown that they were powerless to protect themselves. As a matter of fact, however, we had no proof whatever of these things. The late Mr. Harvey merely observed that the creation of 'a young persons class' would involve some amount of administrative inconvenience, and that, therefore, it was decided to limit the hours of adult males also.

"My Lord, I fully agree that administrative convenience is an important consideration which the legislature should never lose sight of. But it is not

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the only nor the most important consideration that we have to keep in view, and surely nobody would say that the industrial interests of the country should be subordinated to administrative convenience. The administrative inconveniences referred to by Mr. Harvey can be avoided, and have been avoided in Great Britain, by means of a competent supervising agency such as that proposed by the late Factory Commission.

"But, my Lord, we have been told that the example of Great Britain does not apply to India, because in England labour is highly organized. The implication seems to be that if labour were not so organized, the hours of adult labourers would have been limited by direct legislation. Labour organizations in England are of much later growth than factory industries, and I am not aware that at any time previous to such organizations the hours of adult labourers were restricted by law. That, however, is by the way. If the existence of labour organizations is a reason why adult male labour is not restricted in England, cannot these organizations be left to protect women and children and young persons also? Are we to suppose that the intelligent working men of England are so utterly lost to the duties they owe to their wives and sisters and children that they would not use the power their organizations give them to protect their kith and kin as well as themselves?

"No, my Lord, it is incorrect to say that the reason why there is no time-limit for adult operatives in England is because they have their labour organizations and do not need it. The real reason is that the direct restriction of hours of adult males would be an interference with their personal liberty, which would not be tolerated. My Lord, it is a mistake to suppose that the Indian mill-hand—at any rate the Bombay mill-hand of whom I can speak with knowledge—is a helpless tool in the hands of his employer. Unlike the English factory labourer, the Indian mill-hand is not entirely dependent on the mills. He can, and often does, turn his hands to agriculture, domestic service and other occupations when he is dissatisfied with or unable to find work in mills. Moreover, the demand for labour is so much greater than the supply that a mill which sets itself against the sentiment of its workers will soon find itself in a difficult position.

"I am in entire sympathy with Government in their laudable desire to ensure the health and well-being of the labourers in factories. All that I say is, 'Let not a principle which has been found objectionable in England be recognized in our legislation.' My Lord, I do not want to tolerate sweating. I am prepared to accord my most cordial support to any form of legislation aimed at the prevention of excessive hours, if it does not involve any restriction of the liberty of the individual adult worker. One of such forms is that suggested by the Factory Commission. There is another way of effecting the same result, which I would be glad to submit for the consideration of the Select Committee. I earnestly trust, my Lord, that Government will not insist on carrying the Bill in its present form; and I am sure that, by modifying the Bill in regard to this point, Government will have the satisfaction of achieving their great and humane object with the support and approval of all."

The Hon'ble MR. DADABHOY said:—"My Lord, I crave leave to offer a few observations on the principle of the Bill before it is referred to a Select Committee, reserving a detailed examination of the provisions when it comes up for final consideration. I have every hope, in view of the strong appeals and representations of the manufacturing public, the Select Committee will make large changes in the Bill, and will ultimately present it in a form less likely to provoke adverse criticism. I feel at the same time that a non-official Member can only hope to influence the Government policy underlying any provision of a Bill at this stage. Experience shews any substantial revision of a Bill after the Select Committee's report is impracticable.

"The minor changes proposed in the existing law, I may at once say, have my support. But as a representative of the people I must voice the popular discontent that the Bill has caused on account of its numerous drastic and unsuitable provisions. In my opinion, the Bill in certain respects is too ambitious in purpose, too comprehensive in scope, and too elastic in language. It

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attempts a radical change in the present Act. I fully realise the difficulty of the Hon'ble mover of the Bill—the late Mr. Harvey, whose untimely death this Council must deeply mourn; I am also prepared to concede that it is almost impossible to frame a law the details of which will meet with universal approval; but it is certainly possible for Government to so regulate legislation by following the line of least resistance as to carry the community with it simultaneously with effecting the necessary reform. Unnecessary legislation is worse than useless. It defeats its own object by alienating public sympathy and support. The necessity for an amendment of the existing law should be clearly established and the object must be beyond cavil. The question is, does the Bill before the Council satisfy these requirements of wholesome and progressive legislation? I am afraid the answer can only be in the negative. And what is worse is that the Bill has already aroused suspicions among the people of an ignoble genesis. People unfortunately suspect that the anxiety for the protection of Lancashire interests determines and colours the policy of the Bill.

“ My Lord, I feel I would be remiss in my duty to the country in general and to my constituency in particular if I omitted to enter my emphatic protest against one of the principal features of the Bill. Hon'ble Members of Council are fully aware that public opinion distrusts it, and that there exist in the public mind misgivings about the proposed limitations on adult labour. The curtailment of the freedom of action of the citizen must always be regarded as a serious encroachment upon civic right, the gravity of which is enhanced in the present instance by the questionable method by which it is proposed to be done. A Bill like the one now before the Council, the principal aim of which is to limit the working hours of adults and children in textile factories, under ordinary circumstances might perhaps have received some measure of support from the commercial public and the non-official Members of Council; but the incidental circumstances have made the Bill highly unpopular. Apart from the fact that, rightly or wrongly, there is considerable doubt in the public mind as to the ultimate object and the probable effect of the Bill, the Government has selected a most inopportune time for the amendment of the law and for the introduction of legislative restrictions. I fully appreciate the humanitarian motives that have inspired the Bill, and no right-thinking citizen will impute ungenerous motives to Government; but it must be admitted that the Indian Government, which has imposed and maintains a countervailing excise-duty on indigenous cotton goods to propitiate Manchester, cannot reasonably hope to avoid some measure of hostile and unpleasant criticism of its action, and of misinterpretation of its solicitude for the well-being of the labouring classes.

“ But ignorant and captious criticism apart, there are serious matters for the consideration of Government. Humanitarian considerations alone should not determine Government action. There is no room for moral idealism in administration. The principle of non-interference with private contracts is a recognised canon of enlightened administration. The freedom of the capitalist and the labourer to enter into agreements which they think desirable and mutually advantageous should be respected unless they outrage the moral sense of the community. This point ought to appeal to Government.

“ The Government of India needs a very strong and unassailable case to be made out before it launches on legislation of such exceptional nature, more particularly when the underlying policy is opposed to clear and definite pronouncements of high authorities made in and out of this Council. I must recall here the assurance given in this Council by one of our former Viceroy, Lord Lansdowne, when the Factory Act of 1891 was on the tapis. ‘We believe,’ remarked the noble Marquis, ‘that the effect of our measure will be to place factory labour in India on a proper footing, and our Bill will be accepted here and at Home, not, as the Hon'ble Mr. Nugent would have us believe, as a mere prelude to still further restrictions, but as a settlement as final as any settlement of such a question can be.’ But, alas, the prophecy of the late Mr. Nugent has proved true, and that too within a few years of the emphatic averment of one of the most brilliant and respected of Indian Viceroy.

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"My Lord, I do not contend that an assurance like the one just referred to, coming through from the august head of the Government of India, should tie the hands of all succeeding Viceroys and debar them from revising any law in the light of new experience or altered conditions; neither do I deny that the demand for limiting the hours of adult labour may be justifiable under special circumstances; but we cannot overlook the fact that in the West it is viewed as a stretch of power for any Government to arrogate to itself the duty of determining the number of hours in a day an adult labourer may work. It is conceivable that the State may under grave and exceptional circumstances regulate the conditions of employment of adult labour, but it is equally true that it is the birthright of every man to pursue his own interests in his own way. If there is one principle which is universally acknowledged and respected in all civilised countries, it is the right of the individual to fix of his own free will the hours of work. Every man is the master of his time and energy; their application must be left to be determined by individual volition. In England, State interference with adult labour is known only to a very limited extent. Operatives working in an atmosphere of bisulphide of carbon and railway employes under the Act of 1895 only are protected against heavy and continuous work at the discretion of the Board of Trade. The form which State control has taken in England is of a light, elastic, unirritating kind. If we examine the history of the protective legislation of the last sixty years, we find that it has only aimed at prohibiting the employment of children and women beyond a certain number of hours, and in the case of the former, in addition to a minimum limit of age, it imposes certain educational tests. The cardinal principle on which State interference has been justified and has throughout proceeded is that the State is bound to protect those who are not in a position to protect themselves. The obligations of the State to the working man extend so far and no further, and the working classes at Home would not permit or tolerate any interference with the conditions of employment of adult male labour. Public opinion there among the adult factory population does what it does not do in any other country—it draws a sharp and well-defined line beyond which legislative interference with the right of free contract of the employer and the employed cannot go. Wherever State interference with adult male labour has been tried or attempted beyond the above limits, it has signally failed.

"The provision in the Bill regarding the imposition of restrictions on adult labour is not justified by the conditions of work now prevailing in this country. The Bill introduces a novel principle which has only been very recently adopted in England in the case of a special class of workmen. The Indian textile industry has not yet completely passed through its infant stage; it has yet to grow up to vigorous youth. The present depression is severe and trying. The conditions of manufacture are anything but encouraging. The Bill will have the effect of still further hampering the millowners in their already unfair and unequal competition with the foreign producer, and industrial progress will be most certainly impeded and endangered by the proposed limitation of working hours.

"It is not even suggested that any change in the existing law is demanded by the labourers themselves, or that the circumstances are such as would make it imperative on Government to undertake it. The Hon'ble Mr. Harvey candidly admitted that, a few years ago, at the previous inquiry the operatives, in language clear and unequivocal, protested against any legislative interference. There does not appear to have been any subjective change in them during the interval. The last inquiry did not elicit any special repugnance to long hours on the part of the millhands. Besides, I do not admit that the charge of working long hours habitually and detrimentally to the physical interests of the labourers has been proved against the textile industries in India. Even the verdict of the Factory Commission on that point is neither conclusive nor definite. Their verdict is virtually the Scotch verdict of 'not proven.'

"The Factory Commission of 1890, which was presided over by so competent, zealous and experienced an officer as Dr. Lethbridge, examined very minutely and with care the question of the working hours of the mills,

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and it arrived at the conclusion 'that there is nothing in the conditions under which Indian operatives work which calls for any legislative restrictions as to the hours an adult male may choose to work. Nor can we conceive any conditions which can ever call for State interference in this matter.' The Commission of 1908, to which Mr. Harvey paid a just and warm tribute, also came to the decisive conclusion that it would not be justifiable to resort to a measure which found favour in very few countries, and that only under exceptional circumstances, and which would be fraught with many difficulties and would cause considerable inconvenience in practical working. That Commission very pertinently remarked that 'we do not consider that any case has been made out in favour of applying a principle which is admittedly of somewhat doubtful validity, which commands acceptance in very few countries, which is open to the gravest objections from a practical point of view, and which supplies a remedy very much more drastic than the circumstances of the case demand.'

"Dr. Nair, who took up a unique position in regard to this matter on the Commission, and whose dissenting Minute I have read with interest, invoked the authority of Adam Smith to strengthen his position, and cited the cases of France and Switzerland for precedent. It is now a matter of history that State interference as regards adult labour has completely broken down in the United States; in Germany and France it has paved the way for socialism and its attendant evils, and in Switzerland, where it was tried as far back as 1877, it has proved wholly unsuccessful. Mr. Fawcett and other authorities whose opinions are entitled to considerable weight even go the length of asserting that the power which the law assumes in the case of women is an infraction of an immutable principle of legislation, and derogates from the right of free contract involved in the right of free citizenship.

"My Lord, it behoves us then to examine the grounds on which the Government has undertaken this legislation. It is urged that the introduction of electric installation in almost all mills since 1891 has placed a strong temptation in the way of millowners and agents, that the security which the Government formerly had has entirely disappeared, and that both operatives and their employers are likely to be tempted to extend the average working day of twelve hours to an inordinate length. It is also urged that, though there is no proof that the operatives have suffered in the past by long working hours, the past and the present conditions of work in textile factories are such as are indubitably calculated to cause deterioration in the physical condition of the factory population; that both the Commission and Government are confirmed in this opinion by the noticeable absence of elderly men in textile factories, in spite of the fact that the demand for labour is much in excess of the actual supply; and that these are circumstances which impose a duty on Government by legislative direction to fix a twelve hours day to prevent overwork in mills. It is conceded that the abuse of employing operatives for excessive hours is not general, that the evils which the Government hopes to avert by parental legislation is not of a deep-rooted or chronic nature, that before and since 1905 there has not been a wanton infraction of the conventional twelve hours' rule, and that, except in a few isolated instances, the mills in India work an average of twelve hours and seven minutes per day. It is therefore more the apprehension of possible prospective delinquencies than past lapses on the part of employers of labour in textile factories that has induced Government to undertake this legislation. But this basis of legislation is wrong on principle and is not sanctioned by precedent. All legislation of a penal or prohibitive character can only be justified by the presence of chronic abuses, and when the evil is of a widespread nature and grave enough to imperil the safety of the community. Restrictive legislation, conceived though in a benevolent spirit, which seeks to fetter individual discretion with a view to prevent possible abuses, may perhaps be justified by over-prudence, but the action is capable of misconstruction. At best it is a policy of doubtful expediency, militating as it does against the salutary principle of least interference with the liberty of the people which animates enlightened administration.

"It is unfortunate, my Lord, that the isolated events of 1905 should provide ground for restricting the working hours of adult male labour by legislative

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interference ; that the exceptional history of a year of abnormal activity in one industry should be made the pivot for an indictment against the textile industries in general. I do not defend the millowners of Bombay for working excessive hours in 1905 ; neither do I commiserate with the Mill Owners' Association in their inability to enforce any rules of a restrictive character on delinquent individual proprietors and agents then. But I ask, was the abuse after all so serious, so glaring, so deep-rooted, so common and so chronic as can only be prevented by enactment of a prohibitive character ? In judging of the exceptional circumstances of that year, I ask Government to scrutinise them in the light of the history of the industry previous and subsequent to the eventful year 1904-1905. It is a matter of common knowledge that before 1904-1905 the mill industry of India had passed through a series of bad years extending over a decade. The depression during those years was disheartening and disastrous. The Indian cotton industry was suffering greatly from competition with producers of foreign goods. Most of the mills did not pay even the most modest dividend for years together. The capital debt on almost all concerns had steadily and substantially increased. Many of them were without funds to carry on their ordinary work. Several mills had to change hands, and many others were sold up by auction at one-fifth or one-sixth of the original cost. Others had gone into liquidation, and many agents and proprietors had practically become insolvent. The depression then disappeared and the sky brightened for the industry, but, alas, only for a short spell. The prosperity was ephemeral. The halcyon days hardly extended beyond a year-and-a-quarter. Then bad times came again ; and the adversity was so severe as to daunt even the stoutest of hearts. In 1907 troubles began anew, and, as it is now well-known, the years 1908 to 1910 brought in their train untold misery. The cotton industry is now again passing through a period of depression, unprecedented in the history of any trade within the memory of any living man. My Lord, I now ask, was there in 1905 no justification for work at high pressure,—was there no redeeming feature in the fact that employers and operatives in Bombay and Agra only strove by mutual compact to recoup as far as possible their exhausted resources during a brief and fugitive interval of prosperity ? I ask, further, if any other country, similarly circumstanced, would not have, under similar conditions, adopted similar methods and acted in a similar way ? Have not we before us the example of England having acted similarly ere this ? Is overtime or long hours, under market conditions peculiarly favourable, unknown in England ? If one is in need of a precedent of recent date, one has only to read the trade reports of England during the Russo-Japanese War, and particularly of the feverish activity prevailing at the time in the numerous gigantic workshops of the Iron Princes of that great country. Moreover, what justification is there for fettering all factory labour by one uniform, rigid and restrictive rule of a limited working day in a vast country like India ? It is not easy to see why Bengal, Madras or the Central Provinces should be penalised for the sins of Bombay and Agra, supposing they are grave and unpardonable. If the Government has conclusive proof of the presence of chronic abuses in one or more industrial centres, legislation in fairness cannot go beyond the local requirements of those places. Further, my Lord, has not the delinquent Bombay been contrite for its past excesses ? Has it not given satisfactory promise of future moderation ? Has not the Commission wherever it has gone received solemn assurances and definite pledges both from employers and operatives that the transgressions of 1905 will not be repeated ? Overtime means more money for the operative ; it is a popular method of eking out the wages. Legislative interference of the kind contemplated in the Bill cannot be agreeable to the mill population. The only excuse therefore for an ambitious change in the law is wanting.

“A legitimate demand for the restriction of hours can only arise when it is widely felt that factory life under present conditions presses heavily upon the millhands and undermines their health. It is possible the proposed Bill if passed into law will be productive of a modicum of good, but if the

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Government hopes that it will appreciably prolong the lives of operatives or really improve their health, I am afraid Government will be disappointed. The present conditions of work at mills are neither severe nor oppressive, regard being had to the easy habits and character of the Indian workman. An Indian operative is not capable of concentrated or continuous labour, or of prolonged and sustained effort. He is by nature not disposed to take his work seriously; he has an incurable habit of spreading the work he has to perform over a long period of time; he invariably works in an easy, careless, perfunctory manner; he must needs loiter in the midst of work; and, he, as though intuitively, makes up for prolonged hours of work by being slack during no inconsiderable portion of his routine labour. His work is done neither with strenuousness nor alacrity, and compares most unfavourably with the standard enforced in European countries. He is likewise not amenable to rules of strict discipline, and strongly resents any interference with his method of work. The employer of labour in this country is wholly at the mercy of his operatives. There is always a much larger demand for labour than the actual supply; it is the employer who competes for labour and the operative who dictates terms. This feature of Indian factory labour has impressed even the Commission, which observes that, in addition to the statutory midday interval, the worker in a textile factory spends from one-and-a-half to two hours of the actual working day in eating, smoking, bathing and sleeping. He also gets the statutory Sunday holiday in addition to several Indian holidays during the year; and many of the workmen take much longer holidays, varying from one to three months each year, in order to spend the savings in their rural homes. It was only the other day stated in the House of Commons by the Master of Elibank that 'in the East labour is not organised as it is in Britain, and is not continuous but intermittent and spasmodic.' We must distinguish between 'a steady toiler who is ready to begin work on the first beat of the engine, and a saunterer who,' according to Lord Morley, watches the minutes like a lazy schoolboy. The late Mr. Harvey was pleased to confirm in this Council what the Commission had recorded in the report, that it had been struck by the 'marked absence of elderly men in these factories,' in spite of the proved fact that the demand for labour was generally in excess of the supply. I regret that the Commission did not carry the analysis further. This phenomenon is not idiosyncratic to mill industry. If the Commission had examined the facts connected with industries other than the textile industry, it would have noticed a similar state of affairs. Elderly men are, in the first place, not common in India. According to actuarial calculation, the average of Indian life is 54 years as against 64 in the West. In the next place, it is a matter of common knowledge that an Indian operative, whatever the field of his employment, when he passes the wrong side of forty, abandons all manner of toilsome work, retires to his village to spend his days in comparative ease and is a dependent on his children or other working members of his family. Again, an operative often divides his time between the pursuit of agriculture and toil in a textile factory. There is no factory population in India. Even in the Presidency-towns you will hardly find any appreciable number of operatives altogether detached from agriculture and village life and other rural occupations. The Commission is explicit on this point: 'In almost all cases his hereditary occupation is agriculture; his home is in the village from which he comes, not in the city in which he labours; his wife and family ordinarily continue to live in that village; he regularly remits a portion of his wages there; and he returns there periodically to look after his affairs, and to obtain rest after the strain of factory labour. There is yet practically no factory population, such as exists in European countries, consisting of a large number of operatives trained from their youth to one particular class of work, and dependent upon employment at that work for their livelihood.' My Lord, the day is still far distant when in this country we shall have a distinct class of factory operatives altogether detached from agricultural pursuits and rural occupations, depending exclusively upon industrial employment as a means of subsistence. The absence of elderly millhands thus imports nothing.

"On the crucial question whether the present conditions of employment have produced physical deterioration, it may be stated that, despite the constant

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and careful attention the Commission paid to this matter, they were unable to detect any such indication among the adult operatives. The verdict of the majority of the Commission is that the evidence before them did not justify the conclusion that there had been deterioration in physique on account of excessive hours, and, in the case of non-textile factories, they considered the evidence to be conclusive against this view. This conclusion of the Commission is supported to a certain extent by statistical information, and, though its value was discounted by the drawback that vital statistics in India ordinarily do not differentiate between the general mass of workmen and those engaged in the textile industry, the Commission was in a position to compare the death-rate among factory operatives with that prevailing among the working classes generally. The comparison has revealed the important and suggestive fact that mortality among mill-hands during the seven years preceding the report was considerably smaller than that among the general operatives. Dr. Turner, who was a member of the Textile Factory Labour Committee, and whose opinion is always entitled to weight by reason of the exceptional opportunities he had of acquiring information, is decidedly of opinion that 'the factory population is not below the average of the same class as regards physique'. I cannot resist the temptation of quoting here one important passage from the note of Lieutenant-Colonel Mactaggart, who was a member of the Commission and whose valued and expert opinion constitutes in my opinion a complete answer to the unjustifiable charge of overworking the operatives. 'On the whole I must emphatically say that, in my opinion, it cannot be said with truth that the hours now worked in the Bombay factories have any injurious effect on the health of the operatives. Whether on social, moral, or political grounds it is advisable to take steps to limit the working hours for adult males in factories is another question; but my opinion, founded on what I saw and heard while a member of the Commission in the Bombay Presidency, is that there exist absolutely no real grounds, medical or otherwise, which would justify Government in directly limiting the hours of adult male labour in factories by legislative enactment.' It is clear therefore that existing conditions are not injurious to the health of the operatives, and that restrictive legislation cannot be justified on hygienic grounds. In my opinion the Commission takes its stand on uncertain, controversial and hypothetical ground when it asserts that continuous work for 14½ hours a day under conditions stated above must lead to the deterioration of the physique of the working classes and render factory work so unpopular as to make it difficult in time to obtain a labour supply commensurate with the economic and industrial needs of the country. This sort of *à priori* argument, always inconclusive and elusive from vagueness, is singularly out of place in a practical debate. Mr. Harvey indeed said something pertinent when he claimed protection for operatives in this country, devoid as they are of all organisation. It is true, my Lord, Indian operatives have no organised trade unions; but we have only to superficially scan the recent history of many industrial centres to discover that they, though not backed up by regular unions and associations, fully comprehend the methods of, and can engineer, local strikes. When they do break out they are most ungovernable; they get completely out of hand, and masters are powerless to control them. The difficulty of the employer of labour is considerably enhanced by the operatives failing to disclose the real cause of their discontent, refusing to formulate any definite demand, and often not knowing their own grievances. The time will come when organised trade unions will be in effective operation even in this country. In any case I cannot help pointing out that where labour is not organised the procedure adopted by Government for its protection by limiting the hours is not the only practical and conceivable method, or even a well-advised method.

"Mr. Harvey, in his speech in this Council, sought to justify the introduction of restrictive legislation by urging that the Factory Commission had, by providing for the direct limitation of hours in the case of young persons, sanctioned by implication the principle of direct limitation in the case of adult labour. In my humble opinion this is a forced construction—a *non sequitur*.

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I think it will not be disputed that there is a sharp distinction between a recommendation limiting the hours of labour for young persons and direct legislative action for enforcing short hours upon adult operatives. If that recommendation of the Factory Commission be accepted, it may probably be that the ultimate effect of legislative protection to juvenile labour would also limit in practice the hours of adult labour, but it can only be indirectly, through its economic influence upon the industry. It is one thing to induce employers through pressure of economic forces to work short hours and quite a different thing to force adult labourers by law to stop work at a particular hour. While nobody will object to the one, the other would be viewed as interference of an irritating kind. Mr. Harvey's argument that 'the most likely way of inviting fresh restrictions is to pass measures which may fail to accomplish their professed object,' will appear unconvincing. It has an air of plausibility. The suggestion seems to be that the acceptance of the proposed measure would prevent future restrictive legislation. It is the old story. The argument is not new. It is in requisition for the justification of all repressive and restrictive measures. There is no such thing as guarantee for the future in legislation. Had the past determined the course of future legislation in a matter of this kind, we would not have heard of this Bill after Lord Lansdowne's solemn assurance. The course of events thus points to a different and contrary conclusion. It has yet to be proved that the Factory Act enacted during Lord Lansdowne's régime has failed. The shrewd observation of Sir John Hewett, one of the ablest, most experienced and far-sighted of our Provincial Governors, is much nearer the truth. 'If legislation is now undertaken to limit the working hours of adult males to twelve or thirteen hours,' said Sir John, 'it will not stop here, but that attempts will be made in the future—not always suggested merely by the idea of doing justice to the operative—to still further restrict the working hours of adult males.' I therefore firmly believe that it is not possible to steer a middle course in a matter like this, and our largest margin of safety lies in altogether excluding any legislative interference with adult labour.

"My Lord, I submit fresh restrictions will not only handicap the most important industry of the country, but practically strangle it. True, Government has evinced a healthy solicitude for the production of long staple cotton, but so far its efforts have failed to have much stimulating effect upon the manufacturing industry and the cotton industry in general. Moreover, Government action in the past, doubtless well-meant, has, far from being encouraging, proved prejudicial to the interests of the Indian manufacturer. The Closure of the Mints to the free coinage of silver, followed by a wholly indefensible Countervailing Excise-duty of $3\frac{1}{2}$ per cent., has seriously affected the export of the Indian yarn and cloth, and *pro tanto* interfered with the millowners' profits. The recent heavy tax on silver, which is equivalent to a three per cent. bounty to China and Japan, has further penalised Indian yarn in the Far East. Are we on the top of all this to be burdened with the further disability of not being able to deal with our indigenous labour? My Lord, it is well-known that the Factory Commission would not have been appointed and this legislation would never have been thought of but for the exaggerated and sensational, albeit honest, reports in a leading journal of Bombay; but the charges of overwork and physical deterioration of the operatives have now been authoritatively contradicted by the Factory Commission. My Lord, Indian manufacturers have been the most constant, devoted and powerful supporters of Government in times of trouble. They have, as a class, scrupulously held themselves aloof from all opposition to Government. It is this class of loyal supporters who claim the protection of Government; and will Government withhold from them the sympathetic consideration to which they are entitled; will Government refuse the help which they so urgently need? I hope not. I pray not. I do not believe that, on a proper presentment of the facts, Government will not listen to our appeal. Malicious aspersions and criticisms notwithstanding, Government is righteous in its intention and aims. More than this, it is actuated by sympathy and a genuine desire to advance the prosperity of the country. With all this sympathy, with all the kindness characteristic of

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British Indian rule, will Government, from sentimental considerations, from a vague fear, fetter and embarrass further an industry that has done in the past and promises to do in the future so much for the material advancement of the country? Legislation of this restrictive nature, be it noted, while doing very little good to the operatives, will seriously handicap the textile industry. I appeal to Your Excellency to yet prevent this unhappy result by removing from the Bill the restrictive provisions regarding adult labour."

The Hon'ble MR. GRAHAM said :—" My Lord, as representing the Calcutta Chamber of Commerce, I feel that I should fail in my duty if I did not on this occasion take the opportunity of, as shortly as possible, pressing the views of that Chamber. While in no way wishing to oppose the Bill, I should like to emphasise one or two points which have already been brought to the notice of Government in a letter from the Chamber. In the first place I think it is obvious that this Bill goes very much further than any recommendations of the Factory Labour Commission; and it is also, I think, obvious that it is very much in the nature of an experiment. Indian labour is, I feel, not quite the best field for such experiments, seeing that very few countries even in Europe have adopted any legislation of this sort. Keeping these points in view, I would ask that in Select Committee the Government would be ready to meet us as far as possible in any alterations and amendments which those who have been put on the Select Committee as experts in this direction may suggest, and I am perfectly certain that any such alterations and amendments will go far to the ultimate smooth working of the Bill if they can be adopted.

"It was with much regret that I heard what the Hon'ble Mr. Robertson said just now to the effect that there would be no going back on the direct limitation of adult labour, and this in spite of the grave apprehensions expressed very strongly by the Chamber of Commerce and other bodies on this feature of the Act. We had hoped that in this direction something might have been done to meet us. But at the same time I was very glad to hear him say that the Government were proposing many amendments which would go far to meet the views expressed as regards other details."

The Hon'ble MR. MUDHOLKAR said :—" My Lord, the assurances which Mr. Robertson has given to us render many of the observations which I wished to make in regard to this Bill unnecessary at this stage of our proceedings. I am glad that Government consider that, in view of the various criticisms and suggestions which have come from those who take interest in this question, they are prepared to make important alterations in the provisions as drafted originally. But there was one portion of his speech which caused me disappointment similar to that expressed by the Hon'ble Mr. Graham, namely, that there will be no going back on the main principle and feature of this Bill. I hope that, in spite of what the Hon'ble Member in charge of the Bill has stated, he would be ready to consider what those who have experience in the employment of labour in different parts of the country have to urge in regard to this matter, and that he would not say that in regard to the main and distinctive feature of this Bill 'nothing that you might suggest from your experience would be at all considered.' We hope that even in regard to that matter, I mean the question of restricting the hours of labour in regard to adult males, he would have a free mind and would re-consider even that question of principle. My Lord, it is very necessary in this assembly, even though we feel that the Bill is one which has come, as it were, as a mandate from a power the potency of which cannot be questioned here, even though it comes with this mandate, it is necessary for those whose interests are involved to enter their emphatic protest against attempts like this. My Lord, the Bill is not one which was brought forward by the Government of India of their own accord, or suggested by any Local Government after conviction of its necessity. It was not demanded by the labourers; it was not demanded by any of the interests concerned in the country. It came from persons who, not to mince words, are our rivals in manufacture and in trade, and it is those rivals who have been working for this legislation. My Lord, this might appear blunt speaking. But I believe in this matter it is best to state things frankly. This is the view taken by those who are interested in

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the trade and also by the people generally, and it is a thing which I do beg Government to take into consideration. The agitation which resulted in the appointment of a Commission and the framing of this Bill, that agitation began after the boom of 1904-1906 in the cotton trade, the temporary prosperity of the textile industry which resulted in a small addition to our spindles and our looms, that roused the fears of those who were interested in the importation to India of an ever-growing quantity of textiles. They were afraid that the Indian textile trade was likely to be snatched away from them. And then was raised the cry of the overworking of the mill-hands. My Lord, in regard to that I would not ask this Council to take any assurance from those who are interested, but to take the statements given by that impartial body, the Factory Commission, presided over by one of the most experienced officers of Government, a gentleman who now holds a seat on the Council of the Governor of Bombay. There it was pointed out that so far as industries other than the textile were concerned, there was absolutely no ground whatever for saying that there were any excessive hours. It is only in regard to the textile industry it was stated that there were in certain parts of the country, what was called, excessive hours. But these excessive hours, be it remembered, my Lord, meant only the working of the factories; they did not signify that the operatives themselves had actually to work for longer hours than 12. It was found that in those factories, which worked for 14 or 15 hours, the number of persons employed was in excess of those who were actually at work at any one time. What they found was that all the operatives who were on the list, were not actually working; only some of them were so working. Others, as is the case in all these factories, took leave or went out for purposes of their own and stayed away for half an hour at a time, and they did this more than once, the total periods of absence often aggregating to one hour, or even one and a half hours, and others had to be kept to take their places. This is what was found by the Factory Commission, both by their personal observation and what was stated to them by witnesses. Then it was also found that the quantity of work which was turned out, in other words, the intensity of labour in India, is nothing as compared to what exists in England. In India, the Factory Commission pointed out, it takes $2\frac{2}{3}$ operatives to do the work of one English operative. That shows how hard, how great, is the strain in England and how comparatively milder is the strain on the operatives in India.

"One thing which I would beg the Council to consider is this, that in all these matters, as the Factory Commission pointed out, what has to be borne in mind is what is demanded by the interests of this country or in other words the interests both of the industry and the interests of the operatives themselves, and we should not allow ourselves to be carried away by what exists in other countries and draw false analogies from what exists in England or Europe or elsewhere. My Lord, those who ask for restriction of hours will find afterwards that the operatives do not thank them for what has happened. They speak of excessive hours in Bombay in 1906. When the excessive hours came to be curtailed, the reduction meant also a reduction in wages, and the operatives themselves were among those who complained of the restriction of hours. In seasonal factories of which I have considerable experience, whenever there is any excess working, the operatives, instead of grumbling, rather welcome these additional hours, because the additional hours mean an addition to their wages, and if factories working 12 hours work 15 hours, the operatives welcome these three hours because that gives them an addition of something like 25 per cent. to their wages. So the operatives themselves, my Lord, do not ask for this restriction. I do not mean to say that humanitarian considerations should be left aside. And in order not to be misunderstood I wish to guard myself in regard to the necessity of protecting women and children as they are unable to protect themselves. In the case of children the State occupies the position of being its guardian. Even the *patria potestas* has to be laid aside in the case of children; much more then has the employer's power to be curtailed when children are employed. Similarly in the case of women who do not possess the same

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independence, the same control over themselves as men do, a considerable amount of care from the State is required. These things were admitted so far back as 1881 and 1891, and there is no disposition whatsoever in any responsible quarters to deny the necessity of protecting women and children. But it is this new principle which is sought to be introduced in India against which it is necessary to make an emphatic protest, that is, the curtailment of the freedom of persons quite capable of taking care of their own interests. If there had been any necessity, any reason shown, why factory hands ought to be specially protected, if it had been shown that advantage was taken of the ignorance or the necessities of these people, to impose upon them conditions which do not obtain in other trades, then a case might possibly have been made out. But, my Lord, unless we are prepared in this Council to admit communistic principles and to say that here we shall have nothing but equal division of profits between capital and labour, and that the hours of labour in every sphere of life, amongst domestic servants, in agriculture and in all other industries, have to be brought under the operation of the principle, I do not see with what consistency we can say that hours of factory labour alone shall be regulated by legislation. Unless we are prepared to say that this principle is to be carried to other spheres of life also, I submit, my Lord, it would not be proper for the legislature to say that this rule of maximum hours of labour can be laid down with regard to factories. It is, as I submit, my Lord, first of all an interference with the freedom of contract, and secondly it is selecting a special sphere of life for special legislation of an onerous kind and placing on factory owners responsibilities and heavy burdens which do not exist in the case of other trades. This is a matter in regard to which I ask Government to keep a free mind and to consider whether it is necessary to have this kind of restriction prescribed for adult male labour in factories. There are several matters more or less of detail, and in regard to them I say nothing at present. Only in regard to this distinctive feature of the Bill, it becomes necessary to submit to this Council the protest of the Province which I represent and which possesses nearly 330 factories. It is necessary to enter our protest against this interference with adult male labour and with the relations proposed to be established between them and the factory owners."

The Hon'ble SIR VITHALDAS D. THACKERSEY said :—" My Lord, I had the honour of representing the Bombay Chamber of Commerce and the Bombay Mill-Owners' Association on the last Factory Commission. I signed the report of the Factory Commission and endorsed almost everything that was said by that Commission ; so that it cannot be said that, when I am speaking here, I am speaking on behalf of the employers of labour, because there is much in the Factory Commission's report in favour of the employés also. I may say at once that I would not oppose the restriction of the hours of adult labourers if it can be shown that it is necessary and that the adults have either suffered in health, or that they are not able to protect themselves, or that there is no other way by which we can meet any possible sweating in the future than the one method adopted by Government in the Bill. I hope that, after the statesmanlike declaration made by Your Excellency that we should work here in a spirit of mutual concession, the statement made by my friend the Hon'ble Mr. Robertson that, so far as the principle was concerned, Government had decided that it should be carried out, is not meant to be final. Perhaps that is the opinion which is at present held by the Government of India, and when we consider in detail the sections of the Bill the Government of India may choose to change their opinion.

"Now, my Lord, let us ask what is the principle to which the Government of India wish to adhere? Is it that there should be adult restriction, or is it that Government should not allow in future any sweating of the work-people? I believe the object of Government is the latter and not the principle that there should be direct restriction of the working hours of adults. Now, so far as that is concerned, I think that those who are connected with factories will gladly co-operate in bringing about the result that Government have

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in view. But I am opposed to the direct restriction of the hours of adults, because I feel—and there are many others who feel in the same way—that it will create the greatest inconvenience possible to the industrial communities, on occasions when a little overtime is necessary and when it will hamper the industry not to be allowed to do this extra work. That view is taken by the Factory Commission in paragraph 47 of their Report. Paragraph 47 of the report says—

‘We are strongly opposed to any direct limitation of adult working hours, because we consider that there is no necessity for the adoption of this drastic course, because we are convinced that it would cause the greatest inconvenience to existing industries, most of which have never worked long hours, and because we think that such a measure would seriously hamper the growth of industrial enterprise.’

“Now, my Lord, after such a declaration by the Factory Commission is it right that we should go with a light heart and do just the opposite of what the Factory Commission recommended? The Factory Commission, as we know, was the most representative Commission ever appointed by the Government of India. It represented the several trades and industries. On the Commission we had as Chairman the Hon’ble Mr. Morison, than whom it would be difficult to find an officer more conscientious or who had greater sympathy with the raiyats from whom the millhands are generally recruited. We had also the assistance on the Factory Commission of Mr. Beaumont, who is the Chief Inspector of Factories in England. I trust Your Lordship will agree that the recommendations of such a Commission ought to carry the greatest weight with this Council, and with the Government of India. The Commission recommended the creation of a ‘young persons’ class between the ages of 14 and 17 and the limitation of hours of their work to 12; and they were of opinion, and I do sincerely believe that they were right in thinking, that such limitation would bring down the hours of work in textile factories to 12. I mean the economical working of the mill. It was stated by the late Mr. Harvey, whose sad death we all deplore, that the Commission had suggested his as an indirect restriction in order chiefly that the hours of adult labourers should be restricted to 12. Now I was on the Commission, and I can say on behalf of the Commission that this is incorrect. We went step by step and we found that the restriction of the hours of young persons was necessary on its own merits. That is my point, and it was pointed out clearly by the Factory Commission in their Report.

“Then, my Lord, about the independence of the factory employés, much has been said here and I will not detain the Council on that head. But as regards their health there are very interesting statistics given by Dr. Turner, statistics compiled during 7 years which show that the death-rate among the general labourers of Bombay was 31·58 while the death-rate amongst the factory operatives was 18·45. And Dr. Turner in his evidence pointed out that this was because the conditions of mill labour were much better: the men are better fed, better clothed and better housed. We have also the statistics of the death-rates in the Ratnagiri District, from which the mill-hands come, and we find that that district has the lowest death-rate in the whole Presidency.

“My Lord, it was said by the late Mr. Harvey that the creation of a ‘young persons’ class would entail administrative inconvenience. We know that there is a class of ‘young persons’ in England and no one has ever suggested that administrative convenience should reign supreme and that no regard should be paid to the inconvenience caused to factory owners by the direct restriction of the hours of adult labour.

“Well, my Lord, I think that the best plan for this Council would be to accept in *toto* the recommendations of the Factory Commission, and if the object that we have in view is not attained it would be quite easy for Government to come up next year and say: ‘Here we accepted the co-operation of the factory owners, we accepted your own suggestion, we accepted the Report of the Factory Commission, but the object has not been served. Well we will have direct restriction of adults.’ That will be the proper time, my Lord, when the Government can justly dictate their terms. If, after all, there is a doubt about the effects of the creation of a ‘young persons’ class, then there is another way of dealing with the question, and that is what has been proposed by the Bombay

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Chamber of Commerce, *viz.*, that in section 21 it might be provided that after 12 hours' work there should be a compulsory stoppage, I mean an interval of rest for the next 2 or 3 hours. For example, a factory starting at 6 o'clock will have to give half an hour's interval at 12 under the Bill. Re-starting at 12-30, it will have to stop at 6 o'clock, and, according to this suggestion, the hands must be given an interval of 3 hours so that they cannot begin work again before 9 P.M. It is absolutely impossible to expect the hands to come out at 9 o'clock at night to re-start the mill for the factory owner. There are other ways of dealing with the question if Government is not convinced of the efficacy of the Factory Commission's suggestion, and these I will place before the Select Committee.

"Then, my Lord, there is one other important matter which I should like to bring before this Council, namely, the question of working daylight hours. A passage from Lord Lansdowne's speech has been quoted by previous speakers, but since those times the only change that has taken place in the conditions of factory labour is the installation of the electric light, as the late Mr. Harvey admitted. Mr. Harvey said that the conditions which prevailed in 1891 had been radically altered and that Government should, therefore, interfere in the matter. If any one studies the Report of the Factory Commission he will find that out of 224 cotton mills in India less than 100 are fitted with electric lights. Out of these 100, 25 or 30 only have worked excessive hours. Now, for the sake of these 25 or 30 mills we propose that all should be penalised. The mills in the Central Provinces have no electric lights, and the mills in the Madras Presidency also have no electric lights. They work daylight hours: they are not working excessive hours. To them the Government says under this Bill: 'Some people in Bombay have sinned, therefore we shall introduce a regular 12 hours' Bill. We cannot tolerate daylight hours although it is liked by the hands. If the finances of the mill do not permit of electric light installation, do not work for longer hours. You shall not work more than 12 hours when the days are long.' That is the position which we create by this direct restriction. We tell everyone in the country that they must put in electric lights, and work 12 hours only.

"My Lord, that is all that I wish to say on this Bill, and I hope, as I have said at the beginning of my speech, that a spirit of mutual concession will characterise our proceedings and that Government will rather aim at preventing sweating than at the restriction of the hours of adult labourers."

The Hon'ble MR. MONTEATH said:—"My Lord, the Bombay Chamber of Commerce have welcomed the inquiries of the Factories Commission and have in general supported the proposals. The Chamber expressed itself entirely at one with the Commission as to the necessity of restricting the hours of labour, but as a matter of principle objected to the hours of adult labour being restricted by direct legislation. As indicated by the Hon'ble Sir Vithaldas Thackersey, the Chamber has suggested that the object desired can be secured by adding a clause to the proposed Act as follows:—

'Provided that in the case of the textile factories in which a system of employment in shifts approved by the local inspector is not in force, there shall be after the factory has run twelve hours, excluding stoppages, under this section, an entire stoppage of all work for not less than one hour in cases where the previous stoppages aggregate to not less than one hour, and not less than one hour and a half in cases in which there has been a stoppage of half an hour only.'

The Hon'ble MR. ROBERTSON:—"My Lord, in my opening statement I referred to the very complete exposition of the policy of Government in connection with this Bill which was made by the late Mr. Harvey when he introduced it, and I also said that it was our earnest desire that, provided this policy is maintained, no unnecessary restrictions should be placed on the mill industry in India. That policy has been criticised by certain of the Hon'ble Members who have spoken, and it will be necessary for me to take up the time of the Council for a few minutes to recapitulate the grounds on which it is based.

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"The Hon'ble Mr. Dadabhoy has referred to the debates which took place in this Council when the existing Act was passed in 1891, when the hope was expressed that further legislation of a restrictive nature would not be required. The change which came over the employment of labour in factories by the subsequent introduction of electric light in Bombay City—60 out of 85 mills have electric light installations—had, however, frustrated that hope, and has led to a state of affairs which has given the Government much anxious consideration.

"The question of the hours worked in textile factories came specially into prominence in the year 1906. The previous year had been a year of great prosperity to cotton manufacturers in India, and in the Bombay Presidency the boom had resulted in operatives being worked for very long hours with only the prescribed interval of half an hour for rest. The matter attracted public attention and an inquiry was set on foot by the Government of India into the facts. Eventually an experienced Factory Inspector (Sir Hamilton Frere-Smith) was sent out from England to investigate the conditions existing. With him were associated two medical officers of Indian experience. The report submitted by this Committee strongly confirmed the abuses which were alleged and which were found by the Committee to exist, and concluded with the recommendation that legislative action should be taken by Government to limit the working hours of adult males in factories. The Government of India had, however, given a pledge that no such action would be taken until a representative Commission had examined carefully into the whole subject. This Commission was appointed in the year 1907, and their report was submitted to Government in 1908. The Commission found that excessive hours were habitually worked in textile factories in many parts of India, more especially in cotton-mills in Western and in some localities of Northern India, and in the weaving department of jute-mills in Bengal. On this point I join issue with the Hon'ble Mr. Dadabhoy, who seems to consider that the Bombay scandal of 1905 is still the only text which Government have before them. The Commission made a proposal by which they trusted that a 12 hours working day would come to be adopted, and throughout their report they made it quite evident that this was the object they had in view. The report was circulated to Local Governments for opinion, and it was particularly enjoined that the views of persons connected with the mill industry should be obtained regarding their recommendations. The whole of the opinions thus received were very carefully considered by the Government of India in 1909, and the decision was come to to legislate for the restriction of the working hours of adult males in textile factories.

"I have given the above brief resumé in order to show the deliberation which has been bestowed upon this important question. As was explained by the late Mr. Harvey, the Government of India were unable to accept the recommendation of the Factory Commission that an indirect method should be adopted for obtaining a limit to the working hours of factories. The Commission had proposed the creation of a class of 'young persons' between the ages of 14 and 17 whose working hours should be defined. The hope was time and again expressed by the Commission in their Report that the creation of such a class of operatives with limited hours of working would automatically bring about a general 12 hours working day. It was only when after exhaustive examination the opinion thus expressed was found to be insufficient to attain the desired result that the Government of India embarked upon the legislation which is now before this Council.

"The arguments which have been adduced against the Bill resolve themselves into the following :

"The proposal to limit the hours of adult males in textile factories is unnecessary and uncalled for ; it is a serious interference with the rights of adult male labour and an unjustifiable restriction of rights over property. It is further argued that the present is an unsuitable time for undertaking an experiment in legislation of the nature proposed, as the mill industries are in a depressed condition. I shall briefly deal with these arguments.

"I should like in the first place to read three extracts from the Report of the Factory Commission, a report which was signed, as he himself has

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remarked, by the Hon'ble Sir Vithaldas Thackersey. 'In our opinion,' say the Factory Commission, 'no further argument is necessary to prove that such a condition of affairs,' *i.e.*, the state of affairs that obtained in Bombay in 1905-06, and which the Commission found to be still prevalent in many parts of the country, 'must inevitably lead to the deterioration of the workers. It must also render the factory work so unpopular that the labour supply necessary to the adequate development of the industrial resources of the country will not be forthcoming, and the abuse is of so grave a character and so opposed to all humanitarian considerations and so fraught with serious consequences both to the industrial population and to Indian industry that the Government would, in our opinion, be justified in taking any steps which experience might show to be necessary in order to prevent it from continuing or recurring.' And again, 'we consider that it is the duty of Government on both economic and humanitarian grounds to prevent the continuance or recurrence of that system.' The Commission further wrote: 'Had this effective alternative', *i.e.*, the alternative of the creation of a 'young persons class', 'not been available, we are of opinion that direct limitation of the working hours of adults would then have been not only justifiable but necessary in order to prevent abuses which the Government of India could not upon economic and humanitarian grounds permit to continue or recur.' These are strong words, and Government would, I submit, have been found wanting had they failed to act upon the warning which was thus conveyed.

"I may here for one moment say a word as to the reasons which led Government to abandon the alternative of the Commission for the creation of a 'young persons' class which would bring about the limitation of the working hours of adults in textile factories. The Commission described their alternative as 'effective' in the last extract which I have just read. But in another passage of their report it appears to me that they themselves had apparently begun to doubt its effectiveness, when they expressed themselves opposed to direct limitation of the hours of labour, until all other restrictive measures of a practicable character had been tried and had been proved inadequate. On the report being circulated, a strong body of opinion was received that the result anticipated by the Commission would not follow on the recommendation which they made. The Governments of Bombay and the United Provinces expressed the gravest doubts on the success of the Commission's proposals. Some of the other Local Governments considered that failure was certain to ensue. And the opinion was freely expressed that it would be most undesirable to adopt legislation the failure of which to secure its main object would be proved in a few years. Numerous opinions were also received from persons interested in the mill industry which showed that the intention of the Commission would be frustrated. The Bombay Chamber of Commerce held this view, and I may quote the opinion which was given by the Hon'ble Mr. Mudholkar on this particular subject: 'In the event of the creation of a class of 'young persons' he had no intention of stopping his mill at the end of their hours, but would work the mill with adult labour for an extra hour.' That is, in the sultry climate of Berar, the Hon'ble gentleman considered that a man could be worked inside a mill for 13 hours out of the 24 for six days a week. The failure of the Commission's proposals being thus demonstrated, the Government of India had but one alternative left, to proceed by the method of direct restriction of the working hours in factories. They considered it both necessary and imperative that the dangers which the Commission foreshadowed should not be allowed to arise."

"But it is said that the measure involves uncalled-for interference with the rights of the worker to take his own working time. All that I need say about this is that the workers themselves have in general expressed the desire that some definite restriction should be placed on their working hours, this being an object which they cannot obtain by their own action as would be the case in countries more advanced. In more than one place in the Commission's report, reference is made to this matter. I need only quote one instance. 'We find them,' say the Commission, 'with few exceptions strongly opposed to the practice of working excessive hours and in favour of interference by Government to

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prevent it.' A high authority on the subject told me recently, when discussing this question of the preference of the workers: 'You go to one of these mills, which work their people like this, late one evening and see the workpeople's faces. You will not need to ask questions about what the workpeople want; their weary looks will tell you this.' We are further told that this proposal to fix the hours during which men can work is an innovation for which there is no precedent. In England organization of labour prevents the workmen being overworked, but as the Factory Commission at the outset of their report have remarked, we cannot apply the practice of England to this country. And on the general question it may be permissible to quote Professor Jevons, who, in his work *State relation to Labour*, speaks of the matter thus:—

'No one would propose to interfere with the workman labouring in his own private shop or dwelling. There the adult can work as he likes, but where a large number of men are employed in a factory there is not the same individual liberty. All must conform to the utterances of the majority or the will of the employers or the customs of the trade. I see nothing therefore to forbid the State from interfering in the matter if it could be clearly shown that the existing customs are injurious to health and that there is no other probable remedy. Neither principle, experience nor precedent in other cases of legislation prevents us from contemplating the idea of State interference in such matters.'

"In India we are convinced that there is no other probable remedy for the evil which we are now discussing save State interference as proposed in the present Bill. The Hon'ble Mr. Dadabhoy has just admitted that the State must intervene in the interests of those who cannot protect themselves, and we hold that it has been abundantly shown that the Indian factory labourer falls within the latter category.

"It has also been argued that this measure is an unjustifiable interference with the rights of the mill-owners. We do not believe that the mill industry will be adversely affected by the measure which we propose, but in any case we could not allow the argument to stand in view of the graver considerations involved in the humanitarian and economic issues on which so much importance has been laid by the Factory Commission in the extracts which I have already quoted. We know that many mill-owners are prepared to accept the twelve-hours' limit as a sound economic measure since it will protect those who desire to treat their operatives humanely from the unfair competition of those whose desire for gain blinds them to the wastage of labour that is going on, even if they do not discern it. When the Bombay Mill-owners' Association in 1905 themselves proposed a twelve hours' working day, are we to believe that they thought it was going to do them harm? The proposal could not be carried into effect as certain individual mill-owners failed to act up to the standard which was set. We think it is but reasonable that a means should be found of securing the mill industry against what can only be described as such unfair competition, and, as I shall presently show, we do not believe that the restriction which we propose to introduce will have the effect of decreasing the value of the labour in the mills throughout the country.

"The Factory Commission have devoted a special chapter of their report to the effect which the reduction of the working hours of adult males to twelve will have upon the production of the mill industry. In their report they discussed the information supplied to them by four mills—the Buckingham Mills in Madras, the Cawnpore Cotton Mills and the Elgin Mills in Cawnpore, and the Empress Mills in Nagpur—which have made experiments in this direction. In two cases only was the experiment continued for a sufficiently long period to give results of definite value, and in these two cases the verdict of the Commission, after carefully considering the conditions, is that the production in a twelve-hour day exceeds or equals the production in a fifteen or thirteen-hour day. They further say that their observations have satisfied them that the Indian operative is more adaptable than the employers of labour in India have hitherto believed. If this be the case, the argument of undue interference with the rights of property becomes of little moment.

"I would ask the Hon'ble Members who have criticised the principle of this measure, what chance there is of a steady class of mill operatives being

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built up, if conditions such as the Factory Commission found to exist are not once and for all rendered impossible. The Commission have remarked upon the shifty nature of the factory workers in places where excessive hours are worked. And as time goes on, as other industries develop, it may be expected that mills will find an increasing difficulty in conserving their labour force, unless factory life is rendered attractive. Surely it is not to the disadvantage of the mill industry that Government should step in to do what far-seeing factory owners themselves admit to be imperative for the ultimate success of the industry, and that the foundation should be laid for the building up of a highly trained operative class, by the work of whose hands the manufacturing wealth of the country will increase.

“As to the present being an unfavourable time for the introduction of this measure, I may point out that, in the first place, the Bill, if passed into law, will not become operative until after a stated period of time, and, in the second, surely it stands to reason that a period when the mills in their own interests are working short time is a suitable opportunity for the introduction of a measure such as is proposed. Be that as it may, Government cannot depart from the principle involved in this Bill. As I have already said, this principle has been adopted after much deliberation and inquiry, and it has been accepted by many persons in the mill industry as a sound and beneficent measure.

“I may perhaps be allowed to mention, before I conclude, a couple of instances in this connection. At the Buckingham Mills in Madras, which I visited last September, I was told by the manager that the Company entirely approved of the measure; only in one detail, relating to cleaning of the machinery on Sundays, would it make any difference in the present practice of the mill. The Empress Mills at Nagpur have been described by a very high authority, Sir John Hewett, as the model of what an Indian mill ought to be. They are managed by Khan Bahadur Bezanji Dadabhoi, whose evidence on the subject of the working hours of mills is deserving of the greatest weight. The Khan Bahadur would even reduce the working hours of the day below the twelve hours' limit proposed in the Bill. He holds that a legally restricted working day of eleven hours, if adopted, would ultimately be found to be the best arrangement alike for masters and men on social, humanitarian and economic grounds. When these opinions are held by the managers of flourishing institutions such as I have mentioned, Government can surely say that they are justified in holding to this measure as one which should be placed upon the Statute-book.”

The motion was put and agreed to.

INDIAN PATENTS AND DESIGNS BILL.

The Hon'ble MR. ROBERTSON moved that the Indian Patents and Designs Bill be referred to a Select Committee consisting of the Hon'ble Mr. Syed Ali Imam, the Hon'ble Mr. Graham, the Hon'ble Mr. Subba Rao, the Hon'ble Sir Vithaldas Thackersey, the Hon'ble Mr. Macpherson, the Hon'ble Mr. Mudholkar, the Hon'ble Mr. Graves, and the mover. He said:—“When I introduced this Bill in Council in March last, I explained its main provisions and the reasons for its introduction in some detail, and I need not repeat them now. I have only to say that the Bill which was then circulated for opinion has been received with general and marked approval, and that the procedure which it lays down for the grant of a patent is considered to be a great improvement on the existing law. Such criticisms as have been received are almost all directed to points of minor detail, which it is unnecessary for me to mention at this stage. These small points will all be duly considered in Select Committee.

“Of the changes of principle which the Bill introduces, there are only two that have been the subject of any important comment. In the first place a desire has been expressed in some quarters for the introduction of the

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sections of the English law which allow a provisional specification to be filed anterior to the complete specification of an invention. I explained in March last the disadvantages in this procedure. In actual practice the final specification has to be substantially identical with the original description of the invention, and the necessity of preparing two separate documents describing an invention causes considerable harassment both to the inventor and to the Patent Office, and is liable to cause trouble should proceedings be subsequently instituted before the Courts. The one advantage of a provisional specification is that it sometimes enables the inventor to develop his invention in the interval between the provisional and the complete specification. But it is considered that this is completely outweighed by the disadvantages to which I have alluded. I believe that except in England and some of the Colonies a provisional specification is not allowed, and I understand that even in England it is disliked in many quarters, and statistics seem to show that its use is steadily diminishing in comparison with the complete specification filed in the first instance. I may at the same time point out that it is always open to an inventor to amend his application, or to drop his first application and file a second, at very small cost to himself.

"The second point to which I would briefly refer relates to the provision for compulsory licenses. It has again been suggested in some quarters that the provision in the English Act which allows the revocation of a patent on the ground that the patented article is manufactured exclusively or mainly outside the United Kingdom should be introduced in the Indian law. Our principal authorities, however, are agreed that the country is not ripe for a measure of this nature. I may mention that the provisions of section 27 of the English Act have only been put into effect to a very limited extent, and that the expected advantages of the new procedure have been inconsiderable. This being the case we do not propose to make any change in the Bill in the direction indicated. I may add that we have provided in the Bill a cheap and easy means of compelling a patentee to grant licenses to work his invention, and it is considered that this procedure is sufficient."

The Hon'ble MR. SUBBA RAO said:—"My Lord, I may be permitted at the outset to say that the present Bill is a distinct improvement on the Act now in force. Since 1888 it has been found that the present Act handicaps the inventor and does not effectually protect the public, and that the procedure laid down in it is in many points somewhat cumbrous and out of date. I am glad, therefore, that legislation on the subject has been taken in hand, and that it has been adapted as far as possible to the legislation in the advanced countries of the West. I may, however, refer to two points of principle in connection with this measure. One of them has been touched upon by the Hon'ble Member in charge of the Bill, and that is whether persons who take out a patent should be permitted to manufacture articles abroad and import them freely into this country, simply because they have secured a patent here, or whether they should be required to work the patent exclusively or mainly in this country. This is an important question which has a great bearing on the future prosperity of this country. It is estimated that in the United Kingdom, where the new law requiring the patent to be worked in that country has been in force for the last three years, nearly, if not more than, a million sterling has been invested in land, plant, and buildings. British manufacturers have been enabled by this provision to secure licenses from foreign patentees on equitable and reasonable terms. I submit that a similar provision in the present Bill would secure similar advantages to this country. No doubt conditions here are different from those prevailing in England; but when we consider that our industrial position is rather at a low ebb, such a provision will be of immense advantage to India. In fact, I submit that it would give an impetus to the industries and manufactures of this country and that it would make it easy for Indian manufacturers to obtain licenses for patents now proposed to be worked in foreign countries. I, therefore, venture to submit that this provision is imperatively necessary for this country.

"The second point I wish to refer to is the amount of work which is thrown on the Governor General in Council by this Bill according to which various

[3RD JANUARY 1911.] [*Mr. N. Subba Rao ; Mr. Madge ; Mr. Robertson.*]

questions will have to go before that body and the Governor General in Council has to sit in appeal against all decisions of the Comptroller. There are one or two ways in which the question may be looked at. It is no doubt a very high privilege, a very high honour, conferred upon an applicant or appellant under this Act that his case, apparently not one of much importance, is to be tried by so august a tribunal as the Governor General in Council. At the same time I have great doubts whether this tribunal of the Governor General and the Executive Members of his Council is the best tribunal to dispose of the questions that arise under the Bill and whether it is worth the while of the Governor General in Council to devote any time to the adjudication of such matters. In other countries no doubt such questions as these are left, for instance in England, to the Law Officer or the High Court, and I do not see why jurisdiction under this Bill should not be given to our High Courts. No doubt in this country the Executive generally takes upon itself and is rather too ready to take upon itself the functions of the Judiciary. But I am afraid that the Governor General in Council is not the best tribunal to adjudicate on questions that arise under the Bill. I venture to suggest, therefore, that the several questions arising out of this Bill should be left to the ordinary judicial tribunals, to the High Courts of this country.

"These are the two points of principle to which I thought it desirable to draw the attention of the Council in connection with this Bill, and I hope that these two points will be taken into consideration by the Select Committee to which the Bill is referred."

The Hon'ble MR. MADGE said :—" My Lord, if the Hon'ble Mover had kindly stated the reasons which had weighed with the Government in inducing them to reject the revocation clause of the English Act, I should not have taken up the time of the Council in explaining the views which I have been asked to voice in this place. The only papers circulated to this Council throwing any light upon this point are contained in the letter of Mr. Denny, in which reference is made to two clauses of the English Act, and in the letter from the Director of Public Instruction forwarding Mr. Heaton's suggestions. But these two quotations hardly develop the point to which attention ought to be drawn. The wording of the English Act, in section 27, is this :—

' At any time not less than four years after the date of a patent and not less than one year after the passing of this Act, any person may apply to the Controller for a revocation of a patent on the ground that the patented article or process is manufactured or carried out exclusively outside the United Kingdom. '

"From what I have been able to gather and read on the subject, among the reasons which entered into the minds of those who framed this clause were the facts that owing to the lower labour wages of Belgium, Germany and France, a large number of products were dumped at home at cheaper rates than they could be produced in Britain. Now it may be said that because in this country the labour wage is even lower than in Europe, arguments of that kind could not apply to a country like India. But as a matter of fact those of us who read trade quotations will find that a great many of the articles manufactured and brought from abroad could be produced in this country if some better protection were afforded in this country. I am not an expert on this question, my Lord, and I do not want to dilate upon it, but I have found—I have enquired amongst those who have more interest in the matter than I myself, and they have found—that our industries are not sufficiently protected and that a great deal is brought from abroad that might be made here, and that one of the avenues from which this evil creeps upon the country is the Patent Law. If that be so, I am sure the Hon'ble Member would confer a great favour upon our small captains of industry if he gave some attention to the doubts that I have tried to express."

The Hon'ble MR. ROBERTSON said :—" My Lord, I have nothing to add to the remarks that I made when moving that the Bill be referred to a Select Committee. We shall be prepared to consider the points pressed upon us by the Hon'ble Mr. Subba Rao and the Hon'ble Mr. Madge, although I personally can hardly hold out the hope that we shall be able to meet them

TRAMWAYS ; ARMY.

[*Mr. Robertson ; Mr. Jenkins ; Mr. Butler ; Sir T. R. Wynne ; the Commander-in-Chief.*] [3RD JANUARY 1911.]

with regard to the provision as to compulsory working. The matter will, however, be fully discussed in the Select Committee."

The motion was put and agreed to.

CRIMINAL TRIBES BILL.

The Hon'ble MR. JENKINS SAID :—" My Lord, I beg to move that the Bill to amend the law relating to the registration, surveillance and control of Criminal Tribes be referred to a Select Committee consisting of the Hon'ble Mr. Syed Ali Imam, the Hon'ble Mr. Chitnavis, the Hon'ble Mr. Gokhale, the Hon'ble Nawab Abdul Majid, the Hon'ble Mr. Holms, the Hon'ble Mr. Phillips, the Hon'ble Malik Umar Hyat Khan, the Hon'ble Mr. Earle, the Hon'ble Lieutenant-Colonel Davies and the mover. I fully explained the scope and purport of this Bill when it was introduced into the Legislative Council, and I do not propose to cover the same ground again. Since the Bill was introduced, it has been published and the opinions of Local Governments have been invited. No objection has been taken to the principle of the Bill, as indeed was to be expected since the principle has been embodied in the existing Act for many years. Many suggestions have however been received upon minor points, and these will be fully considered in the Select Committee. I do not think that I need refer to these minor suggestions, which refer principally to points of drafting, and are essentially matters for the consideration of the Select Committee."

The motion was put and agreed to.

INDIAN PORTS (AMENDMENT) BILL.

The Hon'ble MR. BUTLER said :—" My Lord, I beg to introduce a Bill to amend the Indian Ports Act, 1908. The Bill is a very short one and a very simple one. Its object is to enable provision to be made for the preparation of a satisfactory code of regulations for the prevention of the spread of disease by means of ships arriving at and departing from India. The Bill has been published and only one verbal criticism has been elicited. I now beg leave to move that it be referred to a Select Committee consisting of the Hon'ble Mr. Syed Ali Imam, the Hon'ble Mr. Graham, the Hon'ble Maung Bah Too, the Hon'ble Mr. Subba Rao, the Hon'ble Surgeon General C. P. Lukis, the Hon'ble Mr. Monteath, the Hon'ble Mr. LeMesurier, the Hon'ble Mr. Porter, and the mover."

The motion was put and agreed to.

INDIAN TRAMWAYS (AMENDMENT) BILL.

The Hon'ble SIR T. R. WYNNE moved that the Bill further to amend the Indian Tramways Act, 1886, be referred to a Select Committee consisting of the Hon'ble Mr. Syed Ali Imam, the Hon'ble the Maharajadhiraja Bahadur of Burdwan, the Hon'ble the Raja of Dighapatia, the Hon'ble Malik Umar Hyat Khan, the Hon'ble Sir Lionel Jacob, the Hon'ble Mr. Graves and the mover.

The motion was put and agreed to.

INDIAN ARMY BILL.

His Excellency THE COMMANDER-IN-CHIEF moved that the Bill to consolidate and amend the law relating to the government of His Majesty's Indian Forces be referred to a Select Committee consisting of the Hon'ble Mr. Jenkins, the Hon'ble Mr. Syed Ali Imam, the Hon'ble Mr. Haque, the Hon'ble Pandit Madan Mohan Malaviya, the Hon'ble Khan Zulfikar Ali Khan, the Hon'ble Major General Sir Robert Scallon, the Hon'ble Mr. Madge, the Hon'ble Lieutenant-Colonel Davies, the Hon'ble Malik Umar Hyat Khan and the mover.

The motion was put and agreed to.

[3RD JANUARY 1911.] [*Sir Guy Fleetwood Wilson ; the President.*]

OPIUM (AMENDMENT) BILL.

The Hon'ble SIR GUY FLEETWOOD WILSON said :—" My Lord, I beg leave to introduce a Bill to amend the Opium Act of 1857 and to move that the Bill may be taken into consideration. This Bill is required to legalise a small change in the administrative machinery for the control of our Opium Department. Under the old Act of 1857, the supervision of the Opium Department vested in the Bengal Board of Revenue: but in more recent times the greater portion of the poppy cultivation in British India has moved into the United Provinces. The reduction in area which is now being effected in consequence of our agreement with China is still further diminishing the importance of the poppy industry in the Province of Bengal proper. The Agent—for we shall now have only one Agent—has his headquarters in the United Provinces; the bulk of the cultivation is in that Province; and the great majority of the establishment will be permanently employed there. It has thus become a matter of administrative expediency to transfer the direct control of the Department to the Chief Revenue-authority of the United Provinces. The Bengal Board will continue to manage the sales of provision opium at Calcutta; but in other respects their functions will now be taken over by the Board in the United Provinces.

" The Council will see that the Bill deals with a matter of simple administrative convenience, and involves no controversial matter or questions of principle. In introducing the Bill therefore I beg to move that it be taken into consideration at once."

The motion was put and agreed to.

The Hon'ble Sir GUY FLEETWOOD WILSON moved that the Bill be passed.

The motion was put and agreed to.

ADJOURNMENT OF COUNCIL.

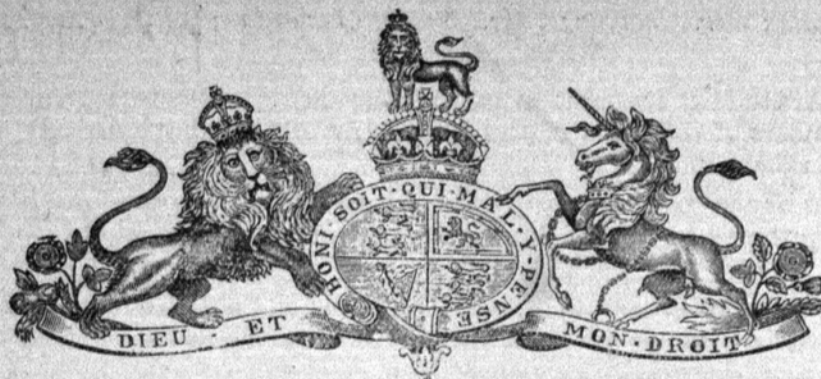
HIS EXCELLENCY THE PRESIDENT : " Gentlemen, I propose that we now adjourn until Tuesday, the 24th of January, when we will take up the various Resolutions which some Hon'ble Members have already placed on the paper and may place on the paper before that date; and after our meeting on the 24th of January, we will continue the discussion of the Resolutions and any other legislative business that may be ready *de die in diem* until everything is completed and until we are able to adjourn for the March session. The Council is now adjourned."

J. M. MACPHERSON,

*Secretary to the Government of India,
Legislative Department.*

CALCUTTA;

The 12th January 1911.



The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, FEBRUARY 4, 1911.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART VI.

Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

PROCEEDINGS OF THE COUNCIL OF THE GOVERNOR GENERAL OF INDIA,
ASSEMBLED FOR THE PURPOSE OF MAKING LAWS AND REGULATIONS
UNDER THE PROVISIONS OF THE INDIAN COUNCILS ACTS,
1861 TO 1909 (24 & 25 VICT., c. 67, 55 & 56 VICT., c. 14,
AND 9 EDW. VII, c. 4).

The Council met at Government House, Calcutta, on Tuesday, the 24th January 1911.

PRESENT :

His Excellency BARON HARDINGE OF PENSHURST, P.C., G.C.B., G.C.M.G., G.C.V.O.,
G.M.S.I., G.M.I.E., Viceroy and Governor General of India, *presiding*,
and 60 Members, of whom 55 were Additional Members.

RATES FOR THE CARRIAGE OF GOODS ON RAILWAYS.

The Hon'ble SIR T. R. WYNNE: "My Lord, I beg to lay on the table a copy of the correspondence* relating to railway rates for the carriage of goods which was referred to in my reply to the question of the Hon'ble Mr. Sachchidananda Sinha at the meeting of the Council held on the 3rd instant."

QUESTIONS AND ANSWERS.

The Hon'ble MR. MADGE asked :—

"Will the Government be pleased to state (1) when the re-adjustment of salaries and departmental relations in the Provincial Branches of the Public Works Department under the last reorganization will be completed, and (2) whether the said re-adjustment cannot be hastened in order to lessen the distress which may possibly be caused by the delay?"

The Hon'ble Mr. Gokhale asked :—

"(a) Will the Government be pleased to state why there has been a delay of nearly two years on the part of the Government in submitting their proposals to the Secretary of State regarding the new scheme for the reorganization of the Provincial Service of the Public Works Department?"

* Not published with these Proceedings.

[*Mr. Gokhale ; Mr. Carlyle ; Mr. Sachchidananda Sinha ; Mr. Jenkins.*] [24TH JANUARY 1911.]

“(b) Are the Government aware that this delay has caused great discontent among members of the Service, and that many of them have already been put to a considerable loss ?

“(c) Will the Government state when their proposals are likely to be submitted to the Secretary of State, and when they are likely to be made public ?

“(d) Will the Government lay the opinions of Local Governments, received in reply to their Circular letter of March 1910, on the table ?”

In reply to the foregoing questions the Hon'ble MR. CARLYLE said :—

“(a) The delay has been due to the complicated nature of the matter and to the very diverse views expressed by the different Local Governments consulted as well as to the necessity of endeavouring to arrive at a solution which will secure a final settlement of the case.

“(b) The discontent is due to the reorganisation of 1908 which did not meet the views of the Provincial Service. No members of the Service have incurred any actual loss though they have not benefited up to the present, as they have preferred to remain under the former rules rather than to accept the terms of the reorganisation.

“(c) The question of the reorganisation of the Provincial Engineer Service is under the consideration of Government and no avoidable delay is being allowed to occur, but a further reference to Local Governments has proved necessary.

“(d) As the question is still under consideration the replies of Local Governments will not be put on the table, at any rate at present.”

The Hon'ble MR. SACHCHIDANANDA SINHA asked :—

“Has the attention of the Government been drawn to the case of a printing press at Dera Ismail Khan some months back, in which the Deputy Commissioner demanded a security of Rs. 1,000, but the next day, when the amount was produced, he raised it to Rs. 2,000 without assigning any reason ?”

The Hon'ble MR. JENKINS replied :—

“The facts of the case referred to in the question are as follows :—

“At about the time of the Peshawar riots, a paper called the *Frontier Advocate* of Dera Ismail Khan published inflammatory articles, tending to intensify the racial feelings at Peshawar, which eventually ended in the riots in March last. Security of Rs. 4,000 was accordingly demanded under each of section 3 (2) and section 8 (2) of the Press Act, but, as it was not forthcoming, the paper ceased to exist. Subsequently, on 25th May 1910, one Brijlal, who asserted that he was a compositor to Lala Karim Chand, Editor of the *Frontier Advocate* and owner of the press, stated he had purchased the press from Lala Karim Chand and applied for formal sanction to be allowed to maintain a printing press. The Deputy Commissioner believed the transaction to be *bona fide*, but in view of Brijlal's previous association with Lala Karim Chand, he ordered him, on 25th May 1910, to deposit Rs. 1,000 in cash or Government promissory notes as security under section 3 (1) of the Press Act. The same evening the Deputy Commissioner received information that Brijlal was a man of straw, that the purchase could not have been *bona fide*, and that the so-called sale was a purely fictitious transaction, designed to enable Lala Karim Chand to carry on his press and avoid the order for security which had been demanded of him. The next day Brijlal brought into Court a post office investment certificate for Rs. 1,000. The Deputy Commissioner then informed him that he had for special reasons varied the security originally demanded and required Brijlal to deposit Rs. 2,000 in cash or Government promissory notes. This security has not yet been furnished.”

[24TH JANUARY 1911.] [Mr. Chitnavis ; Sir T. R. Wynne ; Mr. Dadabhoy ; Mr. Robertson.]

The Hon'ble MR. CHITNAVIS asked :—

“Has the attention of Government been drawn to the following passage in the speech of the President of the last Industrial Conference held at Allahabad on December 30th, 1910 :

“A few years ago the Government required a large quantity of materials for the State Railways and an Indian concern asked that it might be allowed to supply these. The local manufacturers were asked if they would agree to their goods being subjected to the same test as the English manufactures were, and on their agreeing to this, it might reasonably have been expected that the Government would have willingly paid the same rate in India as the cost of the same goods in England. Instead of this it was stipulated that the goods should be supplied at 5 per cent. less than the imported cost?”

“Is there any truth in the statement ? If so, will Government state the principle underlying the differential treatment ?

“Is Government prepared to rule that in Government purchases of materials, other conditions being equal, preference will be given to local firms and manufacturers ?”

The Hon'ble SIR T. R. WYNNE replied :—

“Government are unable to give a reply as to whether there is any truth in the statement quoted, in the absence of any indication therein as to the specific case in connection with which it was made. The rules in force at the present time fully provide for preferential treatment in the case of all articles which are manufactured in India from indigenous raw materials, provided the quality is good and the price not unfavourable ; and also in the case of articles manufactured in India from imported raw material, provided the price of the finished article is not in excess of the price of similar articles manufactured in England, and the material employed satisfies such tests as Government may prescribe.”

The Hon'ble MR. DADABHOY asked :—

“Will Government be pleased to lay on the table the despatch of the Secretary of State ‘with regard to the whole question of State assistance to the industrial progress of the country’, as also ‘the strong protests received from the commercial public’, to which reference was made on 3rd January current in reply to my question *re* State pioneering of industries ?”

The Hon'ble MR. ROBERTSON replied :—

“As desired by the Hon'ble Member, a copy of the despatch from the Secretary of State, dated the 29th July 1910, on the general question of the State assistance to be rendered to the industrial progress of the country, as well as a copy of the protests received officially from the commercial community against the establishment of State manufacturing departments, have been placed on the table.* The Hon'ble Member may also refer to pages 34, 184 to 186, 194 to 196, 225, 226 and 237 of the publication entitled ‘Papers relating to the Industrial Conference, held at Ootacamund in September 1908.’”

The Hon'ble MR. DADABHOY asked :—

“Are educated Indians admitted into the various Government factories in the country as apprentices for training in the details of manufacture, especially in the higher branches ? If not, will Government be pleased to provide for the admission of such apprentices for the technological instruction of the people ?”

* *Vide* Appendix A.

[*Mr. Butler ; Mr. Dadabhoy ; Mr. Jenkins ; Mr. Gokhale ; Raja of Kurupam ; Sir G. Fleetwood Wilson ; Mr. Robertson.*] [24TH JANUARY 1911.]

The Hon'ble MR. BUTLER replied :—

"We have no information. It is believed that some Government factories take Indians as apprentices. If the Hon'ble Member will indicate in what particular factories apprentices or more apprentices might with advantage be received, the matter will be further considered."

The Hon'ble MR. DADABHOY asked :—

"Do Government propose to order the recruitment of a percentage of District and Sessions Judges directly from the Bar?"

The Hon'ble MR. JENKINS replied :—

"The Government as at present advised are not prepared to take the action indicated."

The Hon'ble MR. GOKHALE asked :—

"Will the Government be pleased to state what steps are now in contemplation for making adequate provision for a wide diffusion of elementary education throughout the country?"

The Hon'ble MR. BUTLER replied :—

"The question is under consideration. There will be some preliminary discussion at the Conference which is to be held at Allahabad next month."

The Hon'ble RAJA OF KURUPAM asked :—

"Is the Government aware that of late counterfeit silver coins have been in circulation in large quantities in Madras and possibly in other Provinces of India, and the fact that innocent people are made sufferers on account of such circulation? Will the Government be pleased to consider the feasibility of adopting such measures as will tend to put a stop to the circulation of such coins, namely, by rewarding, as in excise cases, persons giving information that will lead to the detection and arrest of the counterfeiters?"

The Hon'ble SIR G. FLEETWOOD WILSON replied :—

"All possible steps are taken to prevent the circulation of counterfeit coin."

The Hon'ble RAJA OF KURUPAM asked :—

"Is the Government aware that the present rule regarding the redirection of telegraphic messages, namely, 'that * * * * the charges must be calculated on the actual number of chargeable words contained in the message with the revised address plus the charges already notified' (*vide* Traffic Instructions, section 5, paragraph 325) is felt by the public as a hardship?"

"Will the Government be pleased to alter it to what it was before the introduction of the new rule or in such other way as will make it less hard on the public, as by charging for the revised address only?"

The Hon'ble MR. ROBERTSON replied :—

"I would invite the attention of the Hon'ble Member to my statement in the Council on the 9th March last in reply to the remarks of the Hon'ble Mr. Gokhale on this subject. The Government of India are aware that objection has been taken to the rule with respect to the re-direction of telegrams; but, as I explained before, the rule is based on the analogy of the practice in the United Kingdom, from which it differs in that we allow re-direction free of charge if the two addresses are in the same town, which the British Post Office does not. The reason for the rule is that in every case of a re-directed telegram, the Telegraph Department is put to the expense of sending a fresh message with a new address, and it is unreasonable to expect of Government going back to the practice of free re-transmission, nor are they prepared to adopt a partial relaxation of the rule in the manner suggested by the Hon'ble Member."

[*Raja of Kurupam ; Sir G. Fleetwood Wilson ;* [24TH JANUARY 1911.]
Mr. Chitnavis ; Mr. Carlyle.]

The Hon'ble RAJA OF KURUPAM asked :—

“ Will the Government be pleased to say whether the issue of the universal ten-rupee and fifty-rupee currency notes has been a success? If so, will the Government be pleased to make the hundred-rupee currency note also universal? ”

The Hon'ble SIR G. FLEETWOOD WILSON replied :—

“ So far as we are at present able to judge, the new universal notes have been entirely successful.

“ It is considered advisable, however, to prolong the period of observation before extending the system.

“ The point raised by the Hon'ble Member will be kept prominently in view.”

The Hon'ble RAJA OF KURUPAM asked :—

“ (a) The Hon'ble Financial Member, Sir Guy Fleetwood Wilson, having stated, in reply to a Resolution moved by me last year, that ‘ the Government of India have decided that, as soon as the financial position again admits of a further remission of local taxes, the Secretary of State will be asked to concur in the discontinuance of this Proprietary Village Service Cess, ’ will the Government state whether their present financial condition permits them to abolish the cess? ”

“ (b) If not, is the Government prepared to abolish this cess and make up the loss thus sustained in such other way as will make the incidence of taxation fall equitably on all tax-payers instead of a particular class of people of a particular Presidency? ”

The Hon'ble SIR G. FLEETWOOD WILSON replied :—

“ (a) I regret that the financial position of the Government of India does not yet enable us to discontinue the cess.

“ (b) The Government are averse from imposing any fresh taxation in the manner suggested by my Hon'ble friend. ”

The Hon'ble MR. CHITNAVIS asked :—

“ Is it a fact that in the United Provinces, in the valuation of land for assessment purposes, a rebate of 25 per cent. is allowed for proprietary *sir*, whereas in the Central Provinces this is not the case? ”

“ Is there any special reason for maintaining this difference in the valuation of *sir* land in the two Provinces? ”

“ Will Government be pleased to introduce the United Provinces rule in the Central Provinces at the next settlement? ”

The Hon'ble MR. CARLYLE replied :—

“ It is not a fact that in the United Provinces a rebate of 25 per cent. is allowed in the valuation of *sir* land. The present practice in the United Provinces is that when the number of proprietors is great or their circumstances poor, the Settlement-officer may, subject to the approval of the Board of Revenue, make such a reduction from the valuation of lands in their proprietary cultivation as the Government in sanctioning the revision of the settlement may have permitted as a matter of grace in respect of that particular district.

“ An analogous provision exists in the Central Provinces Settlement Code, article 230 of which runs as follows :—

“ The share of the malguzari assets taken as revenue may vary in different mahals between the limits fixed by the two last preceding rules, being affected by a number of considerations, of which the following are chief :—

[24TH JANUARY 1911.] [Mr. Carlyle; Mr. Sachchidananda Sinha; Mr. Wood; Mr. Robertson; Mr. N. Subba Rao.]

(7) *The circumstances of malguzars:—*

‘Leniency should be shown in the case of malguzars who are poor or indebted when there is a probability of its assisting them to better their condition. So also in the case of mahals where the profits are divided amongst a large number of sharers.’

“There is therefore little practical difference between the rule in the United Provinces and that prevailing in the Central Provinces, and the introduction of the United Provinces rule in the Central Provinces appears to Government to be unnecessary.”

The Hon’ble MR. SACHCHIDANANDA SINHA asked:—

“Will the Government be pleased to consider the desirability of either abolishing or reducing the impost of Rs. 4,000 a month which is being levied for the maintenance of the punitive police in Peshawar?”

The Hon’ble MR. WOOD replied:—

“The matter is already under the consideration of the Government of India.”

The Hon’ble MR. SACHCHIDANANDA SINHA asked:—

“Will the Government be pleased to state whether the abolition of the sale of postage stamps on commission has had the effect of increasing or diminishing the postal revenue?”

“Are the Government aware that the facilities to the public for the purchase of stamps have been restricted under the new system and that this has led to widespread complaint?”

The Hon’ble MR. ROBERTSON replied:—

“(a) Discount on the sale of postage stamps was abolished in 1907. It is impossible to give figures which will show the effect which this measure had on the revenue from the sale of stamps, as comparison is vitiated by the large decrease in postage rates introduced in October of that year. The Government of India have, however, no reason to suppose that the abolition of commission had any effect whatever on postal revenue, other than relieving the Post Office of the payment of the commission.”

“(b) The answer to the second question is in the negative. There has been no widespread complaint against the abolition of commission on the sale of postage stamps. Some apprehension was expressed, at the time the change was made, that the public would suffer; but experience showed that such apprehension was groundless and the Government of India have heard nothing more about it. It may be added that statistics show that the proportion of articles sent ‘bearing’ has been steadily decreasing since the year 1906-1907, a fact which is hardly consistent with the suggestion that the public have been unduly deprived of facilities for the purchase of postage stamps.”

The Hon’ble MR. N. SUBBA RAO asked:—

“With reference to the statements placed on the table at the meeting of the Council held on the 23rd March 1910, in answer to my question on the subject of the exodus of the Government of India and different Provincial Governments to hill stations, will Government be pleased to state (1) whether the period of seven months spent by the Government of Bombay on the hills includes the time spent in Poona and whether Poona is considered to be a hill station, (2) why the expenditure under this head in Bengal and the United Provinces is nearly twice as large as that incurred in Madras, Bombay or the Punjab, though the time spent on the hills by the Governments of Bengal and the United Provinces is nearly the same as that spent by the Governments of the other Provinces mentioned above?”

[*Mr. Jenkins ; Maulvi Shams'ul Huda.*] [24TH JANUARY 1911.]

The Hon'ble MR. JENKINS replied :—

“ (1) The period spent by the Government of Bombay at Poona has been included in the period of seven months, but Poona is not, in fact, a hill station. It is the capital of the Bombay Dekkhan.

“ (2) Without making inquiries, which will take some little time, the Government of India are not in a position to explain the variations in the expenditure incurred by the Local Governments referred to. The Government of India will make inquiries on the subject. ”

The Hon'ble MAULVI SHAMS UL HUDA asked :—

“ (1) Are the Government aware that there exists a great deal of dissatisfaction in the country as regards the manner of administration of Hindu and Muhammadan endowments ?

“ (2) Do the Government intend to direct an inquiry regarding endowments which contain provisions for public purposes of a religious or charitable nature with special reference to the following particulars :—

(a) Annual profit of such endowments.

(b) Amount available out of such profits for public purposes.

(c) Institutions of a public nature actually maintained out of such profits.

“ Do the Government intend to undertake legislation—

(a) for the maintenance in every district of a public record containing particulars of all endowments containing provisions for public purposes of a religious or charitable nature ;

(b) to compel trustees of such endowments to exhibit periodical accounts either before the Collector or the Judge of each district ? ”

The Hon'ble MR. JENKINS replied :—

“ The questions put by the Hon'ble Member can, I think, be most conveniently answered together.

“ The subject of the administration of Hindu and Muhammadan endowments of a religious and charitable character, as the Hon'ble Member is doubtless aware, last came before Government in 1909 in connection with a private Bill, on the subject of Public Charities Accounts, which the Government of the day permitted Dr. Rashbehari Ghose to introduce, reserving to themselves freedom to accept or oppose it as soon as it had been circulated for opinion. The result of the general references made after the introduction of the Bill was to show that, while a considerable body of opinion existed which held that the administration of such endowments was not satisfactory, and which was therefore in favour of the measure, yet there was little or no evidence that these views were shared by the mass of the persons interested, from whose offerings many of the institutions in question had been largely maintained. Since that time the Government have had reason to believe that dissatisfaction exists in certain communities in respect of the management of particular endowments, but they have no reason to suppose that the general attitude of the mass of the persons interested is different from what it was in 1909. So far as the Government are aware, practically no attempt has been made to utilize the remedies which the law already provides by invoking the powers which the Courts possess to enforce the proper administration of such endowments, and they are not therefore prepared to agree to so material a departure from the policy of non-interference in religious matters, consistently followed since 1863, as that which is involved in the proposals made under head (2) of the question, nor are they prepared to undertake, as a Government measure, legislation on the lines indicated in head (3) of the question.”

[*Mr. Dadabhoy ; Mr. Carlyle ; Mr. Gokhale ; Mr. Butler.*] [24TH JANUARY 1911.]

The Hon'ble MR. DADABHOY asked :—

“(a) Has the attention of Government been drawn to the following statement about oil-seeds and oil-cakes in paragraph 127 of Dr. Voelcker's Report on Indian Agriculture :—

‘ To send away the entire seed or the refuse after the removal of oil, is to send away the valuable manurial constituents contained in the seed ; in brief, to export them is to export the soil's fertility ? ’

“ Have any steps been taken since this report by Government to arrest this export of oil-seeds and oil-cakes from the country ? If not, do Government propose to devise means for the preservation within the country of the manure ?

“(b) Do Government propose further to devise means for the utilisation of bones in India, instead of being exported to foreign countries as at present ? ”

The Hon'ble MR. CARLYLE replied :—

“(a) The Government of India are aware of the statement referred to by the Hon'ble Member and recognise the value of the oil-seeds and their products for manurial and other purposes. They have taken no steps to arrest the exportation of oil-seeds and their products, but have made considerable efforts—and apparently with some success—to inform the Indian public regarding the agricultural value and industrial possibilities of the commodities in question. The profitable utilization of these commodities depends largely on the existence of factories suitably equipped and inquiries were made during the years 1901—05 regarding the advisability of making Government grants for the encouragement of such factories ; but, after consulting Local Governments and the Board of Scientific Advice, the Government of India decided to take no steps in the matter. In doing so, they were influenced partly by the consideration that, with the establishment of factories it was possible that, owing to the high prices offered for cake in other countries, the cake would be exported and the oil remain for sale in India—a result which would have been the opposite of that intended. Cotton cake can be obtained at cheap rates in most parts of India, and there is nothing to show that its use is discouraged by the export trade. As 80 to 90 per cent. of the seed still remains in this country, the Government are not at present prepared to discourage the Indian agriculturist from utilising the oil-seed produce in the manner which he considers to be most profitable to himself. It may be noted also that the value of the exports of oil cake and oil-cake meal alone from an agricultural country like the United States exceeds 78 millions of rupees.

“(b) The usefulness of bone manure in India generally is not so well established as that of oil-cake, but the Agricultural Departments have taken considerable pains to publish the results of experiments and inquiries made by them on the subject, showing the circumstances in which the use of this form of manure is profitable. The fact that it is comparatively little used is believed to be due not to the export trade but mainly to the want of a cheap supply of sulphuric acid to dissolve the bones. The export of bones has shown of late years no marked tendency to increase, and, in any case, the Government of India do not consider themselves justified in interfering with the trade.”

The Hon'ble MR. GOKHALE asked :—

“ Will the Government be pleased to lay on the table a return showing, (1) how many towns in British India with a population of 50,000 inhabitants and above, are provided with filtered water-supply and efficient drainage works ? (2) what has been the cost of such works in each case ; and (3) what share of such cost has been borne by the Government ? ”

The Hon'ble MR. BUTLER replied :—

“ The information required is being collected. When complete, a statement will be laid upon the table.”

[24TH JANUARY 1911.]

[*Mr. Gokhale ; Mr. Jenkins ; Mr. Robertson ;
Mr. Butler ; Sir T. R. Wynne.*]

The Hon'ble MR. GOKHALE asked :—

“ Will the Government be pleased to lay on the table a return showing for each Province year by year the strength of the Criminal Investigation Department—officers and men—and its cost since the Department was constituted? ”

The Hon'ble MR. JENKINS replied :—

“ The information asked for is being collected and will be laid on the table as soon as it is ready.”

PATENTS AND DESIGNS BILL.

The Hon'ble MR. ROBERTSON : “ I beg to present the Report of the Select Committee on the Bill to amend the law relating to the protection of Inventions and Designs. The alterations made in the Bill are with one exception in matters of detail or of drafting, all of which are set forth in the Report. The exception is clause 23, which has been inserted in order to meet the point that was taken by the Hon'ble Mr. Subba Rao and the Hon'ble Mr. Madge at the last meeting of the Council with regard to the compulsory working of patents in British India. The question was fully discussed in Select Committee and we have been able to draft a clause which will, we believe, help to attain the object in view. We have, however, introduced certain conditions preliminary to the passing of an order of revocation for non-working, which we think may fairly be adopted. The effect of these will be that an order for revocation will not be made unless there is a reasonable prospect of the patent being worked in British India.”

CRIMINAL TRIBES BILL.

The Hon'ble MR. JENKINS : “ My Lord, I beg leave to present the Report of the Select Committee on the Bill to amend the law relating to the registration, surveillance and control of Criminal Tribes. The amendments made by the Select Committee on this Bill are for the most part merely matters of drafting. The only two material amendments which we have introduced are one in clause 5, providing that the District Magistrate may exempt any individual member of a criminal tribe or a part thereof from registration. This has been proposed in order to meet the case which undoubtedly exists of there being members of a criminal tribe who themselves lead respectable lives. It seems proper that power should be taken to exclude them from registration.

“ The other amendment is in clause 17, in which the minimum age at which the children may be removed from the guardianship of their parents or their friends has been raised from four to six. We consider that four years is too early an age at which to remove children from the charge of their parents and guardians, and I believe that the change is made in accordance with the wishes of many members of the Council who have spoken to me on the subject.”

INDIAN PORTS (AMENDMENT) BILL.

The Hon'ble MR. BUTLER : “ My Lord, I beg leave to present the Report of the Select Committee on the Bill to amend the Indian Ports Act of 1908. Only two small alterations, and they are verbal, were found necessary in the Bill. These are fully explained in the Report of the Select Committee which is in the hands of Hon'ble Members.”

INDIAN TRAMWAYS (AMENDMENT) BILL.

The Hon'ble SIR T. R. WYNNE : “ My Lord, I beg to present the Report of the Select Committee on the Bill further to amend the Indian Tramways Act of 1886. The Select Committee practically accepted the Bill as drafted,

[*Sir T. R. Wynne ; Major General Sir Robert Scallion.*] [24TH JANUARY 1911.]

one or two verbal alterations only being made. Certain amendments which have been proposed by the Government of Madras were considered to be beyond the scope of the Bill as introduced and were, therefore, not considered by the Select Committee."

ARMY.

The Hon'ble MAJOR GENERAL SIR ROBERT SCALLON: "In presenting on behalf of His Excellency the Commander-in-Chief who is absent in Burma, the Report of the Select Committee on the Bill to consolidate and amend the law relating to the government of His Majesty's Native Indian Forces, I would like to make a few explanatory remarks. The present military code of the Indian Army is contained in the Indian Articles of War. These Articles, originally framed in 1869 for three local armies, have been found unsuited to the present conditions of the Indian Army, which is now one Imperial Force serving not only in India but also in other parts of the Empire. They are also out of date in other respects, and have been so frequently amended as to be difficult of application. The present Bill has therefore been prepared and introduced into Council. It was referred for opinion to all Local Governments and certain military authorities, and the suggestions made by them have been carefully considered by a Select Committee. The Statement of Objects and Reasons, which was laid before Council when the Bill was introduced, went fully into the causes of the alterations in the existing law proposed in the Bill. The Report of the Select Committee explains the amendments to the Bill made by that Committee. It is therefore unnecessary for me to do more than briefly to call attention to the chief changes which the Bill, as amended by the Select Committee, makes in the existing military code.

"(a) The law relating to enrolment and attestation has been simplified. Enrolment will now be the process which subjects to military law all classes, except Native officers and warrant officers who are specially dealt with. Attestation is a further ceremony reserved for combatants and for a few of the higher classes of non-combatants which, while imposing no additional obligations, confers a certain status on the latter with eligibility for non-commissioned rank.

"(b) Ordinary non-penal discharge (*i.e.*, the process under which a person ceases to be subject to military law) has been reserved for its proper place—the Statutory Rules under the Act. The Bill merely provides for dismissal (*i.e.*, penal discharge). This is the system which has been adopted in the Army Act.

"(c) Imprisonment in military custody has been legalised as a minor punishment. Following a recent change in the Army Act, we have fixed 28 days as the maximum which can be so awarded.

"(d) Provision has been made for enforcing, after due inquiry, collective responsibility for losses of arms. Experience has shown that such responsibility is the best safeguard for the arms of a company, especially in 'class company' regiments, *i.e.*, in the majority of the regiments of the Indian Army.

"(e) The provisions of the Indian Articles of War as to crimes and punishments have been altered but little. The clauses dealing with them have, however, been re-arranged on the system which obtains in the Army Act and in some cases the drafting of that Act has been followed.

"(f) Corporal punishment has been restricted to crimes committed on active service and to such crimes committed in peace time as, under the ordinary law, are punishable with whipping. The maximum awardable has, following the Criminal Procedure Code, been reduced to 30 lashes. We consider it absolutely necessary to retain this punishment on active service, where there are no adequate means of carrying out sentences of imprisonment.

"(g) Provisions, similar to those of the Army Act, have been made to legalise penal deductions from the pay and allowances of persons subject to Indian Military law.

"(h) The power to hold a summary court-martial has been extended to non-combatant British officers holding the position of 'commanding officer.'

[24TH JANUARY 1911.] [Major General Sir Robert Scallon ; Mr. Mudholkar.]

This will enable medical officers in command of station hospitals and similar units to dispose of crimes committed by the enrolled establishments of such hospitals and units. At present a combatant commanding officer has to be detailed to hold these trials. This causes unnecessary friction and delay.

“(i) Provision has been made to confer on courts-martial the power of requiring evidence to be taken on commission, a power which criminal courts in India now exercise. It will be rarely used, but will, when used, obviate inconveniences and delays. Adequate safeguards against its abuse have been provided.

“(j) Power has been given to the authorities reviewing the proceedings of summary courts-martial to reduce the sentences awarded by such courts if they consider them excessive.

“(k) The powers of pardon, etc., vested in the higher military authorities have been extended so as to enable these authorities to deal with sentences awarded by courts-martial for certain offences against the ordinary criminal law when committed against persons subject to military law.

“(l) Some minor changes have been made in the law relating to court-martial warrants and the constitution of such courts. All these changes tend to simplify procedure and to bring our code into conformity with that of the Army Act. This is a convenience, as the same officers have to administer both these codes.

“With these few remarks I present the Report of the Select Committee. It will be taken into consideration at a subsequent meeting.”

SCIENTIFIC INSTRUCTION.

The Hon'ble MR. MUDHOLKAR: “My Lord, since I gave notice of my Resolution which has been circulated to Hon'ble Members, circumstances have happened which render it unnecessary for me to move my Resolution before the Council to-day. On Saturday last I received a communication from the Hon'ble Mr. Butler stating that the Government had come to the decision to refer the questions raised in my Resolution to the Conference of Directors of Public Instruction and other persons which was convened to meet at Allahabad in the middle of February, and to which my friends Mr. Gokhale, Mr. R. N. Mukerji, myself and I believe some other non-official persons have been invited to attend. As I did not consider that any particular kind of Committee was necessary for making the inquiry and the report which were necessary for the purpose of clearing the matters in regard to which it appeared that misapprehension existed, and in regard to which it was first of all necessary to obtain definite and clear statements from an authoritative body, I considered that the Conference to which the Hon'ble Member referred would serve my purpose as well as a Committee appointed *ad hoc*. I therefore accepted the suggestion of Government and informed Mr. Butler that it would not be necessary for me to proceed with the Resolution formally. Before withdrawing it, however, my Lord, I wish to tender on behalf of myself and those associated with me in this matter my grateful appreciation of the recognition by Government of this important question and of the suggestion which was submitted by me, namely, that in regard to this matter it is desirable to make the inquiries indicated. In replying to my speech on the Resolution for the establishment of a Polytechnic College for India which was made last year, the Hon'ble Sir Harvey Adamson stated that Government fully recognized the necessity of developing higher scientific and technical education in India, but he considered that the existing institutions were quite capable of affording the kind of education for which I pleaded. This view appeared to me, and I must say to several others also, as not being quite easy of reconciliation with the views arrived at after great deliberation by such authoritative and important bodies as the Naini Tal Conference and the Ootacamund Conference and also the opinions of well-informed educationists and scientists, and it was therefore considered necessary that we should move Government to have a body which would make an authoritative inquiry and clear up matters so that Government

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might be in a position to state definitely what should be done. Such clearing up of ideas could in my opinion be achieved by this Committee, and therefore, my Lord, after again expressing my obligations, I ask permission to withdraw this Resolution."

Permission was granted.

HALF-ASSETS OF LAND REVENUE.

MR. CHITNAVIS :—"My Lord, I beg to move that—

'This Council recommends to the Governor General in Council that at the next Settlement of land-revenue in the Central Provinces the half-assets rule be adopted and given effect to in districts where the assessment exceeds 50 per cent., and if this involves a sudden and large loss of revenue, the 50 per cent. level be attained at two settlements instead of at one.'

"My Lord, before I say anything on the Resolution I must publicly acknowledge my deep obligations to the Hon'ble Mr. Carlyle for his unfailing courtesy in giving me all the facilities and information I wanted in this connection.

"My Lord, I press this matter before Government with a due sense of responsibility. I am as alive as anybody else to the necessity of preserving to the State undiminished all its sources of revenue. But the situation in the Central Provinces is such that a reduction in the profits from land taken by the State has become necessary in the interests as much of that loyal and useful body of malguzars whose aim has always been to co-operate with Government, and to deserve well of it, as of tenants. Times have changed and the economic conditions are not the same to-day as they were in the nineties. A readjustment of the shares in which Government and the malguzars should enjoy the profits of land is called for urgently.

"My Lord, the province I have the honour to represent on this Council was created in 1861 by amalgamating into a composite whole the area which had before that formed a part of the United Provinces, then the North-Western Provinces, under the name of the Saugor and Nerbudda Territories, and the districts which had escheated to Government on the death without issue of the Bhonsla Raja of Nagpur. Before the formation of the province the rule of settlement in the Saugor and Nerbudda Territories was necessarily the same as in the rest of the United Provinces. Before 1855 the practice regarding land-revenue assessment in the United Provinces was a little loose, but in that year what is known as 'the half-assets rule' or the Saharanpur rule came into force which fixed the land-revenue at 50 per cent. of the net actual assets. With the creation of the Central Provinces, this rule, which was already in force in the northern area, was extended to the whole Province. It found a place in the Settlement Code which the first Chief Commissioner, Sir Richard Temple, issued. But in the Settlement of the sixties it was not strictly enforced in some of the districts, I believe more from want of accurate knowledge of the conditions of the new Province on the part of the Revenue-officers than from any inherent aversion to it. During the currency of that Settlement, Chief Commissioner after Chief Commissioner became impressed with its harshness, and expressed their desire, some for a substantial reduction, and others for the strict application of the rule of half-assets. Sir John Morris, Sir Charles Crosthwaite and Sir Dennis Fitzpatrick were for limiting the State demand to 50 per cent. of the net actual assets as in the United Provinces. Sir Alexander Mackenzie succeeded Sir Charles Crosthwaite as Chief Commissioner, and he had to carry through the Settlement of the nineties. He had the disadvantage of being a stranger to the Province, and it may be his first impression gave him an exaggerated idea of the financial capacity of the Province. After a year's connection with the local administration, he moved this Government for the substitution of a two-thirds rule for the half-assets rule then in force, and the Government of India reluctantly sanctioned a 60 per cent. land-revenue settlement generally, and a 65 per cent. settlement in all cases in which the existing assessment exceeded that limit. The rule was accordingly changed. The Settlement of the nineties was apparently made on the basis

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of that rule. But the arithmetical difference in percentage gives an inadequate idea of the incidence of the two settlements. Different methods were followed in the ascertainment of the rental or the village assets, and whereas in the previous Settlement the malguzar's *sir* or home farm had been lightly valued and fallows and miscellaneous profits had been largely eliminated from the account, in the late Settlement *sir* was valued at rates higher than those payable for ordinary tenants' holdings, and fallows and the miscellaneous profits of the malguzar were also assessed to the revenue. Before the nineties the malguzar had his *abwabs* as well. It can well be imagined that even a 60 per cent. assessment on the method followed in the nineties would be more onerous than under the old system of valuation. The method was not in accordance with the definition of 'assets' given in Sir Alexander Mackenzie's letter to the Government of India, No. 267-8 of 16th March, 1888. It was expressly stated that 'assets' included '(1) the cash rental received by the malguzars, and (2) a valuation of the area held by the malguzars themselves at the all-round rate paid by the tenants of the district.' The malguzars accordingly claim reconsideration of the subject.

"My Lord, Sir Alexander Mackenzie's letter itself affords good grounds for reconsideration. It was never his intention to stereotype the rule of settlement he advocated for all time to come. He only contended for the abrogation of the 50 per cent. rule in the Settlement of the nineties. His Secretary, Mr. Fuller, now Sir Bampfylde Fuller, said: 'Briefly, Mr. Mackenzie would ask that the half-assets rule may be authoritatively declared inapplicable to the Central Provinces *at the present Settlement.*' This clearly points to the existence of the half-assets rule in the Province before that, and its abrogation in the nineties left the question of Government share open as regards future settlements. It behoves Government therefore to revise the system now that a fresh Settlement of land-revenue is on.

"My Lord, in this state of things Sir Alexander Mackenzie's reasons in support of his recommendation demand scrutiny. His principal grounds were, briefly:—

- (1) future 'evasion' of the half-assets rule would be difficult;
- (2) the level of rents was low;
- (3) the rental being fixed by the Settlement-officer, the malguzar's income was as secure as the revenue;
- (4) facility in collection of the rents fixed;
- (5) the revenue of the old Settlement had been easily and regularly paid;
- (6) 50 per cent. rule would not bring in a large accession of revenue;
- (7) 50 per cent. rule would not compensate Government for the trouble of settling rents; and
- (8) the proprietary right in land of the malguzar is a recent creation of the British Government.

"Two other reasons have also been advanced by revenue-authorities against the half-assets rule so far as the Central Provinces are concerned, and they are—

- (9) that the Province was immune from famine; and
- (10) that the Province was being developed by railways and roads.

"Of these the first does not require detailed examination. I am sure it cannot appeal to anybody. The second is not correct. Soon after the Settlement, rents had to be revised in several areas, and remissions were allowed in Hosangabad, Wardha and Jabalpur. Sir Denzil Ibbetson, in 1900, in reply to a question in Council by my friend Sir B. K. Bose, admitted that, during his incumbency of the post of Chief Commissioner, he had to revise the Settlement in three districts. Were the severity only due to famine, a revision, I submit, would not have been sanctioned. The difficulty could in that case have been met by a

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temporary suspension or remission. The third ground was based upon an erroneous belief. As a matter of fact, Sir Alexander Mackenzie's anticipations proved too sanguine. The realisation of the rents settled in the nineties was unsatisfactory. The Court of Wards, with all its resources and facilities, could not collect on an average more than 49 per cent. of the demand during the seven years following the Settlement (1894-95—1901-02). During the seven years immediately preceding the Settlement (1887-88—1893-94), the average collection was 88 per cent., or better by 39 per cent. The famine alone will not account for the fact. Even after the famines rents could not be realised in full. Sir Alexander Mackenzie himself admitted in that very letter that 'the tenants have in fact hitherto been too strong for the malguzars.' A strong tenantry like that prove the least obliging in the matter of payment. In his second letter to the Government of India, No. 267-8, dated 16th March, 1888, he remarked :—

'It is further to be borne in mind that if the Tenancy Act produces the results which it is intended to produce, such large increases in assets as those which have occurred in the Hoshangabad and Seoni Districts cannot be looked for in future.'

"This is destructive of the theory that the rents were low and were capable of large enhancement.

"The fourth ground is substantially the same as the third. The fifth ground failed to take note of the facts that payment of Government revenue had been made in some instances out of the ancestral savings of the malguzar, and that, in the old Settlement, the malguzar had so many openings for profit. Besides, since the revenue must be paid, instead of giving the Government trouble, the malguzar chose the honest and loyal course of paying it even by straining his resources. He, I humbly submit, is entitled to credit for his act, and should not be punished for it by being made to pay a higher revenue. I know personally of cases in which the revenue was paid with borrowed money. In answer to the sixth argument I beg to invite the attention of Hon'ble Members to the liberal policy laid down by Government in one of the early Regulations—Regulation VII of 1822 :—

'A moderate assessment being equally conducive to the true interests of Government and to the well-being of its subjects, it is the wish and intention of Government that in revising the existing settlement the efforts of the Revenue-officers should be chiefly directed, not to any general and extensive enhancement of the jama, but to the objects of equalising the public burthens, and of ascertaining, settling and recording the rights, interests, privileges and properties of all persons and classes owning, occupying, managing or cultivating the land.'

"The object of revised settlement is not to secure an increased revenue, but to equalise the conditions and to remove the existing inequalities. The other view put forward by Sir Alexander Mackenzie was subversive of the enlightened principles which have so far guided Government in the matter of land-revenue settlement. Sir Stafford Northcote, Secretary of State, in his Despatch to this Government of 23rd March, 1867, sanctioning a permanent settlement of the land-revenue throughout India, said :

'This sacrifice they (Her Majesty's Government) are prepared to make in consideration of the great importance of connecting the proprietors of the land with the stability of the British Government.'

"This embodies the basic principle of British Indian administration. If the Government was prepared, by sanctioning a Permanent Settlement, to forego all prospective increase in revenue for administrative reasons, *à fortiori* should it be prepared to incur a small loss involved in a lenient Temporary Settlement. Moreover, Lord Curzon's pronouncement in his celebrated Land Revenue Resolution of 1900 takes the point out of the argument :

'In areas where the State receives its land-revenue from landlords, progressive moderation is the keynote of the policy of Government.'

"The seventh ground was founded on the assumption that the rents settled while securing an enhancement, were such as could be easily realised from the tenants. Nothing, however, could be further from the truth. The system followed was no doubt scientifically precise, but it was apt to ignore the law

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of 'diminishing return' and the methods actually employed in cultivation. Indian cultivation is not perfect, and does not utilise to the full the capability of the soil. The actual return is almost always less than the scientific estimate. Sir Anthony MacDonnell, when Chief Commissioner, in his Minute on Mr. Fuller's Memorandum on Prices and Rents, in speaking of the cost of production, observed: 'It would be well in that connection not to overlook the important law of diminishing return..... The raiyat's wants do naturally grow with the increase of his family, while to meet them there cannot be an increase of produce except by an increased application of labour and capital to the soil giving a proportionately less return..... But there is *en concessis* scant capital, while in such a climate as India, especially where continuous labour is exhausting, industry is not increasingly applied unless stimulated by exceptional reward.' In these circumstances, the rents, as fixed by the Settlement Department in consonance with a scientific theory, are likely to exceed the capacity of the tenants. This, of itself, may involve the malguzar in difficulty. To make the procedure a ground for a higher percentage of demand as revenue must be felt as a grievance.

“सर्व” Sir Alexander Mackenzie's last argument raised a controversial point. From all report the malguzar is an old village functionary. It is true he had no ownership in land under Mahratta rule, but, according to Sir Richard Jenkins, Resident at the Nagpur Court, his office was 'hereditary and saleable.' In effect the old system was also valuable to the malguzar. Assuming, however, the status of the malguzar is new, still he is entitled to some consideration. The same generosity which induced Government to secure the malguzar in the perpetual possession of his estate, will, I am sure, lead them to treat him liberally, and to ensure to him the full value of the boon. My Lord, when the malguzars were made owners by Government, it was settled that they would get at least 40 per cent. of the assets for cost of management and the maintenance of their families. In support of this statement I beg to refer Hon'ble Members to the reply given by Sir Anthony MacDonnell in 1894 in this Council to a question of mine on the subject. This arrangement was more than half a century ago, when the general scale of prices was much below the present scale. Does it stand to reason that the same percentage of assets which was enough for the support of the malguzar then would be sufficient in the altered state of things? Contemporary reports testify to the fact that the famines have affected the malguzars more than the tenants. The malguzar was in a prostrated condition in 1902 when Mr. Sly indited his valuable *Memorandum on the Condition of the People of the Central Provinces*. He has picked up a little since, but is still more or less embarrassed for ways and means. Any liberality shewn to him by Government in the matter of assessment will not be misplaced. Even Sir Alexander Mackenzie, in his letter to the Government of India, said he 'would treat them (malguzars) liberally and equitably.' Sir Dennis Fitzpatrick, in his orders regarding the Settlement of Raipur and Bilaspur, observed:—

'Moreover, the malguzars are in certain ways useful members of society; in particular they act as saukars to their tenants, advancing them money and grain, and they are probably on the whole better men for the raiyats to deal with in this way than the saukar. I have been particularly struck during the present season of scarcity by the readiness with which they have come forward to make advances to their people. . . . I desire it to be understood that, apart from their claims as proprietors, they are entitled to our consideration.'

"This opinion does not stand alone. Sir Denzil Ibbetson, Sir Andrew Fraser, Sir John Miller and other high Revenue-officers also bore eloquent testimony in Council as elsewhere to the readiness of the malguzars to co-operate with Government in difficult times, and to their responsiveness to its benevolent impulse. At the Conciliation Proceedings after the famines, initiated by Sir Bampfylde Fuller, they cheerfully relinquished large claims against their tenants involving lakhs of good money advanced to them out of pocket.

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"My Lord, it used to be the pet notion of Revenue-authorities that the Central Provinces enjoyed immunity from famines. Sir Anthony MacDonnell, in 1894, in answer to a question of mine in this Council, alluded to 'the favourable climatic conditions' of the Provinces as justifying a higher assessment. But the recent history of the Province disproves the theory. The Province has been, in point of fact, the worst-affected of all the Provinces during the late famines. We had a succession of them, and it is by no means certain that we have seen the last of them.

"Sir Anthony MacDonnell on the same occasion alluded to the undeveloped state of the Province as an argument against the 50 per cent. rule. But I respectfully submit that railways have now been in existence in the Province many years. Facilities in road communication are likewise not new. Agricultural conditions have been affected as much as they could be by railways and roads; these have already produced their economic results. Whatever force, therefore, the argument had 15 or 16 years ago it has not now. The Province is now in a fairly developed condition, and there cannot be any serious objection to the adoption of the half-assets rule at the next settlement.

"Lord Curzon, my Lord, laid down two conditions in the Land-revenue Resolution of 1900 on the fulfilment of which the Central Provinces could expect to have the percentage of revenue lowered. He said :—

'In the Central Provinces, which have been for a shorter period under British rule, and where much higher assessments, amounting in some cases to over 75 per cent. of the actual income, were inherited from the Mahratta Government, there has been a progressive reduction of assessment; but it has not yet reached the very moderate level that is common in the North-Western Provinces.

'In time as population increases, and more labour and expenditure are devoted to cultivation, the share taken by Government may be expected still further to diminish.'

"My humble submission on this point is that the Province now satisfies both the conditions. The condition about the population must have been due to the alarming decrease noticed at the last Census. Without seeking to anticipate the results of the next Census, it may be safely asserted that there has been a sensible increase in the interval. Indications are not wanting that the population has grown. But, after all, this factor of population affects the revenue-settlement only in so far as it pushes rents to competition limits. I do not know, my Lord, that competition rents are at all desirable. There are numerous disadvantages, not the least of which is the incidental difficulty in recovery.

"The other condition is of course just, and according to official testimony, the Province has made a distinct advance in cultivation, both extensive and intensive. The Hon'ble the Chief Commissioner, in his Resolution on the Revenue Administration of the Province, remarked in 1908 :—

'There has for some years been a steady expansion of the area under occupation, and this expansion continued during the year under report, the occupied area increasing by 189,000 acres or one per cent. in malguzari villages. The area held in ordinary right has expanded by 172,000 acres. Holdings held in this right averaged about 8 acres in area, and it is only in a few special tracts that the population is beginning to press on land. Such is the case in the districts of Nagpur and Wardha, where there is but little room left for expansion without undue encroachment on grazing lands. Some difficulty is already felt in these districts, in common with those of Berar, in respect of grazing and fodder, and it is satisfactory to learn that the people are themselves becoming alive to the necessity of reserving some proportion of their cultivation for fodder crops—a necessity which they are apt to forget at times when the boom in cotton is encouraging them to expand their cotton cultivation at the expense of food and fodder-producing crops.'

"And further :

'There has been a very distinct advance in the direction of agricultural improvement. There is now a small but growing demand for agricultural machines and improved implements, and the selection of seed is gaining more importance among some of the better cultivators. The actual statistics of a single year are not always a reliable index of what is going on, but the reports bear a very general testimony to the steady growth of a desire among the cultivating classes to improve their land.'

"The *sanads* granted to cultivators for improvements also prove the activity of the Province in the matter of intensive cultivation. It may be the limit is

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distant yet, but something substantial has been done to satisfy the condition, and that gives the Province a title, in my humble opinion, to a lower assessment.

"My Lord, Lord Curzon was averse to fix an arithmetical standard in the matter of assessment, and wanted to give 'the personal equation' of the Settlement-officer full play. As I read his Resolution, his object was to avoid rigidity in settlement-operations and consequential hardship. The people admire the motive. But a fairer solution will be found in the adoption of 'the half-assets rule,' with discretionary powers to the Settlement-officer to allow a higher percentage of profits to the malguzar in all cases in which exceptional circumstances justify extra leniency. Whatever may be said of arithmetical standards, the Government of India has fixed a percentage even for the Central Provinces. It is only a reduction in this percentage by a few points that we pray for. In Parliament as also in this country the Government has practically undertaken to work the 50 per cent. rule. The Resolution now places before it the case of a Province where the approximation of the settlement procedure to that rule has still to be effected. The land-revenue with cesses at present ranges from 56 per cent. to 70 per cent. of the assets in the Central Provinces.

"My Lord, a light assessment, I need not point out to this Council, is a great advantage in difficult times. There is not much difficulty in payment; the necessity for revision does not arise so urgently. The Administration is less inconvenienced in allowing the necessary remission. When the revenue is high, a sudden abatement disturbs provincial finance to such a degree that, however imperative, it cannot be sanctioned at once. On the last occasion, the necessary remission could only be granted in Jabalpur in three instalments.

"My Lord, I do not suggest that the 50 per cent. rule should be adopted in the Central Provinces at all hazards. I do not wish to cause Government a sudden heavy loss. My own impression is that the adoption of the lower standard will not involve a heavy loss, but if Government thinks it does, the malguzars will be satisfied if the limit is reached in two steps instead of at one bound in areas where the existing assessment is greatly in excess of it. In areas, on the other hand, where the existing assessment is only by a few points more than 50 per cent., the level can be reached at once without any serious risk of financial dislocation.

"My Lord, I beg to invite Your Excellency's attention, in conclusion, to the following passage in an old Government Resolution:—

'The best wealth of a Government is to be found in the growing wealth of its people and the feeling, which leads it to grudge all that does not fall into the hands of the tax-collector, is a very shortsighted feeling, and must lead, if followed, to a very shortsighted policy.'

"I am thoroughly convinced Government is fully alive to this wise principle of revenue-settlement, and my abiding faith in its benevolent intentions has prompted me to lay the grievances and the wishes of the malguzars of the Central Provinces before Your Excellency."

The Hon'ble Mr. DADABHOY: "My Lord, I beg to support this Resolution. I do it with all the earnestness which local knowledge and conviction can induce. I endorse all that the Hon'ble mover has said. If there is any desire common, widespread and earnest among the people in the Central Provinces, it is that land-revenue settlements should be more moderate. I do not here touch upon the equally universal desire that the settlement of the village-assets preliminary to land-revenue settlement should be more judicious and sympathetic. Weighty official opinion supports that claim. But that does not directly affect the present issue. The terms of the Resolution preclude examination of the subject, albeit cognate and intimately connected with land-revenue settlement.

"My Lord, the revenue policy in the Central Provinces appears to me to have been coloured so far by a misapprehension of the nature of the State demand upon land. The theory seems to be that the land belongs to the State, and it has in consequence a right to take a full share of the produce as rent. Nothing could be more erroneous. The State demand upon land is not

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a rent but only a *land-revenue*, or, in other words, a land-tax. Even the East India Company took that view. In their Despatch of 17th December, 1856, they laid down that the—

right of the Government is not a *rent* which consists of all the surplus produce after paying the cost of cultivation and the profits of agricultural stocks, but a *land-revenue* only.’

“This is the soundest view that can be taken of the nature of the demand, and in this view it is nothing more than a tax which is imposed upon land for the purposes of the State. As a matter of fact, the State is not the owner of the land; the contractual relations of landlord and tenant do not subsist between the Government and the landholder; the subordination of the landholder is that of a subject to the Crown. The landholder’s liability to pay a tax levied by Government is undoubted; but it is wrong to assume that the Government has a right to share in the proprietary profits. In the Central Provinces the *malguzars* were given proprietary rights in the estates they held. Most of the arguments, therefore, of Mr. Mackenzie, in his letter No. 501-8 of 18th May, 1887, for the adoption of a two-thirds rule in the assessment of revenue would appear to be beside the point, and vitiated by the wrong notion about the right of the State to share in the proprietary profits of land. It is this fallacy which lies at the root of the evil of high assessment. It permeates the whole of the revenue policy of Government in the Central Provinces. Inquisitorial investigation of the profits of cultivation, notwithstanding prohibitory instructions, are inseparable from this mistaken policy. It led Chief Commissioner Mr. Mackenzie and his Secretary Mr. Fuller to seek to apply an unworkable theory of ‘economic rent’ for the ascertainment of village-assets.

“Chief Commissioner Mr. A. P. MacDonnell, now Lord MacDonnell, realised the extravagance of the scheme, and, in his *Minute* of 1892, to which the Hon’ble Mover has referred in his Note on the Valuation of *sir* lands, justly condemned it in severe terms:—

‘Ricardo’s theory of rent never did as a working rule.....the theory is not now accepted without great qualifications even in England—the home of Ricardo and Mill, and the belief has gained ground that in point of fact *rent* is something to be shared between the landlord and tenant. This is the principle which has long guided the Courts in India and has been embodied in the Statute law.’

“Further,—

‘Applied to agriculture of any kind, Ricardo’s theory is not a working rule. If it were used as a working rule without the necessary limitations and qualifications, the effect would be to extract the last farthing from the tenant, to check the extension of agriculture and the growth of population, to stereotype the tenant’s condition while his environments change, to prevent any rise in the standard of comfort, and to produce general discontent. A bad policy for a private landlord to pursue, it would be a suicidal policy for the Government of India, which by numerous agencies, moral and material, is striving to enlighten the people and raise them in the scale of comfort and prosperity.’

“But even Lord MacDonnell does not appear to have got over the initial mistake of Revenue-officers of India of regarding land as the property of the Crown. Land-revenue, viewed as tax and not as rent, must produce a revolution in the accepted theories of apportionment of the profits of cultivation. All this disquisition in regard to the share of the profits to which Government is entitled comes to have only an academic interest in that view. It is time Government, formally and once for all, settled its revenue policy on this enlightened principle.

“Now, my Lord, the chief recommendation of a tax is its uniformity; the first condition necessary is that no invidious distinctions should be made in levying it. Such distinctions create heartburning, and are a source of embarrassment to Government. Whatever justification there may be in local conditions constituting a differentiating element in fiscal calculations, differential treatment in respect of an impost cannot be agreeable to the people. Government does not become popular by scientific precision in assessing the provincial liability for a tax, but by broad generalisations applicable to the country as a whole, the amount of the tax being determined by the conditions of the weakest of the Provinces; otherwise put, the impost must not exceed the

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capability of the Province least able to bear a heavy burden. Applied to Land-revenue, this principle would suggest and demand the adoption in the Central Provinces of the standard of the United Provinces and the Punjab. Even if this course involves loss to Government, it should be adopted, if only for the sake of uniformity, which is a great point in taxation.

"But, passing on from abstract principles to facts, the case for the introduction of the 'half-assets rule' into the Central Provinces appears equally strong. It will not be applying to the Province a new theory of assessment. We had the rule before, as the Hon'ble Mover in his able speech has pointed out; it was in operation in the northern districts even before the creation of the Central Provinces as an administrative centre. It is therefore the reversion to an old order that we plead for. It is true at the Settlement of the sixties the rule was violated. Sir Alexander Mackenzie, in his letter No. 501-8 of 18th May 1887, observed, with a candour which in a worthier cause would have gained him applause, that 'in the case of these Provinces the deviations are themselves the rule.' But this, to an ordinary mind, would afford ground for greater stringency in the rule. It is illogical to make deviations from a rule the ground for its elimination. But, I regret to say, Sir Alexander Mackenzie's argument prevailed. That there was not much in his other arguments about different local conditions, apart from this point of 'evasion', will be clear to Hon'ble Members from the existence of the half-assets rule in the first Settlement Code of the Central Provinces, and the opinions of all the other past Chief Commissioners who might be expected to have as much local knowledge as Sir Alexander Mackenzie had after only a year's connection with the Province. Sir Richard Temple was clearly in favour of the 'half-assets rule.' In 1886 Mr. Fitzpatrick, Chief Commissioner, in the course of his Orders *re* Settlement of Bilaspur and Raipur, recorded the following opinion:—

'I have next to refer to the question as to the mode in which the Government share of the assets, as they are commonly called, should be calculated. . . . I had the other day the advantage of discussing it at some length with Mr. C. Crosthwaite, whose views upon it I find are generally speaking in pretty close accord with my own.

'I may say at once that I accept the 'half-asset rule' as the basis of our assessment The general rule should be to take 50 per cent. of the total estimated income of the malguzar from the village.'

"Mr. C. Crosthwaite was Chief Commissioner of the Central Provinces and became Sir Charles Crosthwaite. It is clear both he and Mr. Fitzpatrick, afterwards Sir Dennis Fitzpatrick, were in favour of the 'half-assets rule.' Every one of the other Chief Commissioners has favoured gradual reduction in revenue-assessment. Judging from his broad sympathies, I am inclined to believe that the Hon'ble Mr. Craddock also is for gradual reduction. Had there been anything special in the local conditions of the Central Provinces to justify differential treatment, it would have been known to these Chief Commissioners. Their attitude shews that local conditions do not warrant greater harshness in the matter of revenue-assessment in the Central Provinces. The Hon'ble Mover has also shewn that the supposed 'favourable climatic conditions' have not saved the Province from a famine unique for its severity in India. In this very Council, in 1883, a great statistician, Sir William Hunter, remarked:—

'The Government assessment does not leave enough food to the cultivator to support himself and his family throughout the year.'

"This when the general level of prices was decidedly lower than it is now. Mr. Sly, an acute observer—one of the ablest officers in the service of the Crown,—in the passage quoted by the Hon'ble Mr. Chitnavis in his Note, has come to the conclusion that the malguzar has suffered even more than the tenant during the famines. It is difficult to see how these gloomy local conditions can justify a more onerous assessment than that allowed in Provinces comparatively more immune from distress. Moreover, Government orders on this head are distinct and general, and are applicable to the whole of India; no room is left for variation of the rule in particular areas. In the Despatch of 1864 the Secretary of State for India, Lord Halifax, then Sir Charles Wood

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gave the general direction that only a *half-share of the rent* should be appropriated by Government as land-tax. I do not see how a rule like this can be avoided.

"Lord Curzon, in the Government of India Resolution of 1900, hesitated to adopt the half-assets rule chiefly because, in his opinion, the introduction of a fixed standard might work hardship in particular cases. His anxiety evidently was to secure gradual reduction in revenue assessment. The existing system had not his complete approval. His conclusion was:—

'The Government of India would not desire to claim for the land-revenue system of British India an exactitude or a freedom from blemish to which it cannot pretend. Historically it owes its immediate origin to practices inherited from the most decadent period of native rule, and its form to changes made slowly, and not without mistakes, by men who were aliens to the country, and could only with difficulty, and by slow degrees, assimilate the requirements or enter into the feelings of the people.'

"All this was apologetic, and would seem to indicate Lord Curzon's desire for 'progressive moderation.' That he accepted the half-assets rule as the standard would appear from the pains he took to prove—

'that the standard of 50 per cent. of the assets is one which is almost uniformly observed in practice, and is more often departed from on the side of deficiency than of excess.'

"The Hon'ble Mover has shewn that the assessment in the Central Provinces with cesses varies from 56 to 70 per cent. of the assets. According to the principles laid down in the Government of India Resolution of 1900, it should be gradually reduced to the 50 per cent. level common in the United Provinces and the Punjab. The Resolution now before the Council only recommends such reduction, and should commend itself to Hon'ble Members. In April 1908, Lord Morley, then Secretary of State for India, in reply to a question by Mr. C. J. O'Donnell, stated in Parliament:—

'50 per cent. of the net assets is the ordinary standard of assessment of land-revenue alone throughout India.'

"This is an authoritative pronouncement by the responsible head of Government which the Resolution seeks to reduce to practice. Indeed, in the light of Lord Morley's conclusion the Resolution is a superfluity. But it is a matter of poignant grief to the Central Provinces malguzar that, notwithstanding the high source from which the statement emanated, a land-revenue higher than 50 per cent. is still 'the ordinary standard,' and the Resolution is more than ever necessary.

"My Lord, apart from his title to progressive relief based upon the Government's declarations of policy and the opinions of high authorities, the malguzar, by reason of the pecuniary difficulties with which he is beset, is entitled to sympathetic consideration. The opening up of the country by railways and the growth of intercommunication has brought Western influence into the remotest villages which has proved a solvent of the primitive ideas of the people, creating a desire among them for commodities and luxuries which their simple forefathers never knew. Wants have increased everywhere, and the malguzar from his position has a full share of them. Simultaneously with increased wants, general prices have shewn an upward tendency perplexing to a degree. In the result, financial embarrassment is more or less common. Sir Bampfylde Fuller, in his 'Review of the Progress of the Central Provinces' of 1892, commented on this feature of the rural economy:—

'The fact which has brought the condition of the malguzars most prominently before Government is their general indebtedness The main cause of debt has been extravagance in the marriage expenditure and in feeding hosts of dependents.'

"The famines of the succeeding years have taxed their resources to the utmost. They cannot be in affluent circumstances with so many depressing causes at work. They may be allowed therefore to look up to Government for some relief in their existing burdens. I know there is a body of official opinion which condemns the malguzar for his extravagant habits, and suggests enhancement in revenue in order to deprive him of the means of vain display. But however much one may regret their habits, so long as Hindu society is

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constituted as it is, malguzars must incur extra expenditure on ceremonial occasions and for the support of helpless dependents. Social ideas change slowly; reform is a work of slow evolution. We must look to the growth of education for a corrective of the evils. Meanwhile the farseeing statesman will afford relief, and true relief will be found in a reduction in assessment which will leave a larger margin of profit in the hands of the malguzar, and not in cutting off the supplies. As Lord MacDonnell remarked on a similar suggestion of Sir Bampfylde Fuller's in relation to the raiyat :—

‘I do not think the right way to save the raiyat from indebtedness is to keep him so poor that no one will lend him a rupee. The true remedy is to be found in another direction.’

“My Lord, one other reason would counsel concession to the malguzars. They were formerly the most active and sympathetic patrons of village industries. With attenuated resources, they cannot now do much for them. In the normal state of things an accession in their income will increase the village capital of which a portion at least will be employed for the support of the cottage industries. Mr. Sly, in his *Memorandum*, observed :—

‘Indigenous village industries, which are of far more importance to the welfare of the people, present a very different picture of gradual decay.’

“This is a matter which ought to attract the attention of Government in a far larger measure than it has so far done, and at least the most practical way to improve the prospects of the village artisan is to put more money into the pockets of the malguzar who combines in himself the functions of the village saukar and the village capitalist.”

The Hon'ble MR. CARLYLE: “I do not propose to follow the Hon'ble Mr. Chitnavis' example by giving a long history of the revenue-assessment of the Central Provinces from the Government as distinguished from the malguzars' point of view. It is enough for my present purposes to say that, whatever the status of the malguzars under the Mahratta Government, there can be no question that an enormous boon was conferred on them by the grant of proprietary rights by order of Government fifty years ago, while, so far as the first settlement made after these orders issued, it was found in practice impossible in every case to adhere to the half-assets rule, even in districts where the Settlement-officers believed it to be operative. It unquestionably was not followed by Settlement-officers even in districts where they did believe the rule had been laid down by Government, and the reason was that it would have caused an unjustifiable loss of revenue in a province where the malguzars had just received an enormous boon.

“I am not going into the disputed question of how far the rule has actually extended in various parts of the Province, and it will suffice to explain that the rule on which Mr. Chitnavis lays so much stress was merely an executive order of Government for the guidance of its officers. Settlement-officers did their work under the supervision of the higher officers and settlements were confirmed by the Government of India. It must therefore be taken that, in all cases where Settlement-officers departed from this rule, the departure was either tacitly accepted by the Government or expressly authorised. The rule did not represent in any shape or form an agreement between Government and the malguzars, and there was no legal or equitable bar to the modification of the rule. In view of these facts, it appears to me that Sir Alexander Mackenzie was amply justified in coming up to the Government of India and asking that the rule should be formally set aside and that a new assessment rule should be laid down. The Government of India accepted his proposals with some modification, but not exactly as the Hon'ble Mr. Chitnavis states. They did not lay down a settlement at 60 per cent.; they laid down a settlement at between 50 and 60 per cent.

“I will not follow the Hon'ble Mr. Dadabhoy in his examination of the theory of land-revenue. There has been a long and very bitter controversy as to whether land-revenue is taxation or rent. It appears to me that in many cases the combatants have been describing two sides of the same shield. But the broad facts are that from time immemorial all Governments in this country have

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been held entitled to a share of the gross produce of the land, and the real history of land-revenue under British rule consists largely in a history of the way in which the share of the gross produce absorbed by the British Government has steadily decreased. The question of the percentage of assets to be taken from malguzars has nothing to do with any theoretical question as to whether land-revenue is taxation or whether it is rent. A good deal has been said about the unsatisfactory condition of the malguzars, but I understand that the Hon'ble Mr. Chitnavis admits that conditions have of late considerably improved. I may mention that I have looked up the Court of Wards' Reports for the last three years, and I find that in the Court of Wards they have collected in one year 92 per cent., in another year 110 and in another year 102 per cent. So far as Government revenue payments go, in the last three years, 1906-07 to 1908-09, out of a gross demand of 233 lakhs, all but Rs. 4,000 have been collected. I do not think there can be anything very serious in the state of the Province.

"Before I leave Mr. Dadabhoy I will quote from a readily accessible letter what appears to me a moderate statement regarding the alleged connection between famine conditions and the land-revenue:—

'The question how far the famine conditions which have prevailed can be attributed to assessments has been examined and reported on. Suffice it to say that the people of the Province have during the last seven years lost produce to the value of 40 crores. During the whole period the increase in their revenue-demand has not exceeded a crore of rupees, of which a portion has been suspended or remitted. Only perverse blindness could attribute agricultural depression to the assessment and not to the losses, particularly as the people have received in unrecovered takavi and charitable loans much more than the crore taken from them in increased revenue, not to mention 6½ crores spent on famine relief. Nor is it out of place to mention that it is the districts which have not paid their revised assessments which have suffered the most. Most of the Chanda District, which has suffered so severely in the recent famine, is still paying a revenue fixed 35 years ago.'

"I have left untouched many debatable points as I do not desire to take up the time of the Council unnecessarily by dealing with points which do not appear to me to bear upon the issue now before the Council, especially as I am going on to state that Government are not averse to the general principle of a half net assets rule in the Central Provinces, though it must take some time before it can be adopted everywhere. While I have thought it necessary to indicate that I cannot accept the history of the standard of assessment in the Central Provinces given by previous speakers from the malguzars' point of view, and while I consider that the action of Government in the past has been amply justified, I have at the same time considerable sympathy with the desire of the malguzars to be put on the same footing as regards the percentage of assets to be taken as their brother landholders in the Punjab and the United Provinces. There are historical reasons for the difference which now exists, but as time passes it is natural that the historical reasons should be forgotten and that it should be increasingly felt that distinctions are invidious, and while we are not prepared at once to introduce the half assets rule we are prepared to do something to meet the wishes of the malguzars whose cause has been stated reasonably and moderately by the Hon'ble Mr. Chitnavis.

"The Government of India have been in communication with the Chief Commissioner on the whole subject, and, after consulting him, they have decided that action might be taken on the following lines. So far as the districts of the old Saugor and Nerbudda territories are concerned, the present assessment does not usually materially exceed the half assets standard, and provided that individual exceptions are allowed to prevent material sacrifice of revenue, Government are prepared to accept in principle that the land-revenue should generally approximate to half-assets. As regards the rest of the Province they are not prepared to go so far at present, but their policy will be a gradual reduction of the fraction of assets taken at succeeding settlements until assessments approximating to half-assets are reached and enhancements will generally be limited to half the increase of assets made since the last settlement.

"I trust that the Hon'ble Mr. Chitnavis as representing the malguzars will recognise that Government has gone a long way towards meeting any justifiable wishes of the malguzars. The principle that the half-assets standard

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is to be introduced has been accepted, while at the same time Government will be safeguarded against loss of revenue and will not sacrifice its due share of unearned increment. While I cannot accept the Resolution as it stands, I can on behalf of the Government of India accept it if amended so as to embody the proposals that I have now stated, and I would ask the Hon'ble Mr. Chitnavis whether he is prepared to amend his resolution."

The Hon'ble MR. CHITNAVIS: "My Lord, I have heard with satisfaction that, though he differs from me in regard to the history, the Hon'ble Mr. Carlyle takes a sympathetic view of the case. Without entering into controversy with the Hon'ble Mr. Carlyle, about the principles and the details, after what has fallen from him, I have decided to amend the Resolution on the lines of his suggestion. I am glad to hear from him that the Government intend to place the Central Provinces malguzars on the same footing as those of the North-West Provinces and the Punjab. I have already stated that my object is not to hamper the Administration. I am also anxious to avoid a sudden and heavy loss in revenue. I think it wise to effect a compromise as embodied in the Resolution I now read:—

'This Council recommends to the Governor General in Council that Government should accept the principle that in the districts forming part of the old Saugor and Nerbudda territories the land-revenue demand should generally approximate to half-assets: provided that individual exceptions are allowed to prevent material sacrifice of revenue. In districts forming part of the old Nagpur Province the policy of Government should be gradually to reduce the fraction of the assets taken at succeeding settlements until assessments approximating to half-assets are reached, and in the meantime generally to limit enhancements to half the increase of assets since the last settlement.'

"I now request the Hon'ble Mr. Carlyle to say if the Resolution, as amended, meets with the approval of Government."

The Hon'ble MR. CARLYLE having accepted the Resolution on behalf of Government, the Hon'ble Mr. Chitnavis went on:—

"I am glad the Resolution is accepted by Government. It is a great point that the principle of half-assets settlement has been recognised in the Central Provinces. This Resolution, I am sure, safeguards Government interests, and although from the malguzars' point of view it may not go far enough, the arrangement may be accepted in view of the fact that Government has kindly expressed the desire to meet them half way. In politics the policy of give and take plays an important part. If a whole loaf cannot be had at once, half a loaf should be received with genuine feelings of thankfulness.

"But in land-revenue settlements, the village-assets form the basis of assessment, and I trust that care will be taken that these assets are real and easily realizable. I also beg leave to submit that the value of the boon should not be pared down by the imposition of fresh cesses or an increase in the present percentage of cesses. Further I hope that the reduction in the revenue-demand will be sufficiently large as will leave to the malguzar a margin of profit which will enable him to materially improve his position and prospects in life.

"In conclusion I will draw the attention of the public to the result of to-day's proceedings. The malguzar has, through long years of travail, never ceased to trust Government, and to put implicit faith upon its sense of justice and benevolence for ultimate success, and the result of to-day's proceedings shows clearly that he has not erred. If the reduction in revenue-demand be substantial, he will have, by continuous loyal and constitutional agitation, at last succeeded, though partially, in gaining the ears of Government. This will have its own moral, and will have also its lessons for that emotional body of young men who are apt to be betrayed into a false enthusiasm and an impatience at respectful representations to the authorities."

The Resolution as amended was put and adopted.

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SCIENTIFIC SERVICES.

The Hon'ble MR. MADGE : " I move ' that the Government of India be requested, in consultation with Provincial Governments, to consider the desirability of inviting all large Municipal Corporations to combine in establishing Graded Scientific Services for Engineers and Health Officers, with the object—

- (1) of affording life careers to incumbents instead of chequered careers on contracts for terms of years ;
- (2) of giving incumbents such suitable beginning salaries as may be necessary to secure efficient Engineers and Health Officers, and providing for promotion by increments to such maximum salaries as may be necessary to retain their services ; and
- (3) of admitting of the transfer of incumbents from one Corporation to another.

" I am encouraged, my Lord, in moving this Resolution by two facts. The first is that not very long ago the Government itself projected a scheme or sent it round for inquiry to the Local Governments as to whether a class of sanitary officers should not be employed throughout the country. My second fact is that this scheme, though it resembles the one that I put forward to-day in some important points, differs from it in some radical details to such an extent as to make it almost absolutely necessary that a parallel scheme should be set on foot to supplement or complement the Government scheme. I have referred to the difference between the two schemes, and it is part of my grounds for supporting my own that I should state briefly in what that difference consists.

" The Government scheme was to provide qualified health officers for those towns throughout the mufassal in which medical officers of the Government were practically acting as health officers. Now these medical officers, although they have splendid qualifications and have done excellent service, do not, all of them, possess the Diploma of Health which is almost a necessity now in these scientific days for an expert health officer. That is one of the main reasons, and it shows the difference between the two schemes. But there is another difference. It is that the Government scheme provides only for sanitary officers, whereas the scheme that I have submitted to the Council this morning provides also for Engineers who take a very important part, sometimes in conjunction with health officers, sometimes separately, in working out schemes for corporations.

" Now these two differences, when put before the Council, will show how necessary it is, if the scheme of the Government is desirable at all, that it should be supplemented by some such scheme as that which I have submitted. I have said, my Lord, that some of the reasons on which I support the scheme were actually put forward by the Government itself when sending round their scheme to the Local Governments. May I briefly read these ; they are very short. The first is—

' That a career which is limited to employment by local authorities on uncertain terms and without prospect of pension will not attract candidates of the right stamp, if indeed it attracts candidates at all.'

" And it might have been added there ' or keeps them after they have been attracted,' when they come to consider, some of them, the very unfavourable conditions of their service.

" The second reason given on that occasion was—

' That the insecurity of tenure of appointments under local authorities will tend to deter young men from qualifying themselves for such appointments. The duties of a sanitary officer will of necessity often bring him into conflict with members of the local authorities or their relatives, and if he is merely the servant of the Board or Council, he will either neglect his duty in such cases or perform it at the risk of losing his post.'

" There is an objection on the other hand to which Government refers,—and if Your Lordship permits me I will bring it on later. There are difficulties

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in the way of the scheme which I propose; but in the meantime I wish to fortify my proposal with as many sound reasons as possible, and one of these is that the two most important functions of sanitary officers in all corporations are sanitation and construction. They run into one another in some spheres, and in others stand apart, but they are beyond question the two most important functions of municipal officers. Now, while these two most important functions, at least at their head, in respect of Chief Engineers and Chief Health Officers, are now fulfilled by officers on contract, for periods of years, all the other subordinate functions of corporations are entrusted to officers on permanent salaries, either with pension in some cases or provision of one kind or another through Provident Societies in other places. Why the subordinate officers should be entertained on conditions that are supposed to be favourable by nine out of ten reasonable persons, and why the chief officers—the Chief Engineer and the Chief Health Officer—should be entertained upon conditions that nine out of ten men, if they were considering their careers in life, would pronounce to be most unfavourable, is a matter which I cannot understand. I have tried, my Lord, to give this matter my best thought, but I cannot understand how provisions of this sort crept into the Municipal Acts of Bombay, Madras and Calcutta. I do not wish to take up too much time of the Council in dwelling upon the more favourable conditions of permanent servants but may I now just refer to them in passing? A man comes out to a service knowing that he has his work for life plotted out for him. He throws his whole energy into it: he becomes in time, if he is worth anything at all, an enthusiast in his service. How can you expect a man who comes out on contract for a period of years, not to think of the uncertain future that lies before him? In the natural course of things the man marries; he has a family; he has to provide for them, and his fortune lies in the lap of the gods, as the saying is, for he cannot for a single year, beyond the time of his contract, guess what his future may be—not only his own future, my Lord, but the future of his wife and the children whom he has to educate. Surely these are conditions that would appeal to everyone of us and would incline us, so far as was practicable, unless very grave reasons can be shown against it, to bring in a system that will place all our scientific officers on a certain footing, that will make them enthusiasts where the ordinary instincts that prevail in all human nature prevent their being so now.

“Now, my Lord, it has been said here, on the other hand it is argued, that the creation of a Provincial Service of sanitary officers will conflict with one of the main principles of local self-government, and it is urged that in no branch of local administration is local control so necessary as in matters connected with sanitation. I wish to be quite fair, so I will read another line:

‘The Government of India could not agree to any proposals which did not leave to the local authority the control of its executive officers, whether of the sanitary or any other establishment.’

“Now, my Lord, there is no *arrière pensée* in my mind, and there is no suggestion in my scheme for making any man independent of any authority from whom he draws his pay. All I ask is that all authorities entrusted with the fate of their officers should treat them as they would like to be treated themselves, by extending to them the utmost fairness and making their condition such that they may give the best service that they could possibly give. It ought to be remembered that in all countries—but in this country perhaps more than in others—there are two branches of almost all services, i.e., the administrative and the professional; and I think it will be found that, in the case of the more reasonable members of corporations, they try as little as possible to interfere with the verdict of experts in their own proper subjects, interfering only where the matters become purely administrative. But, my Lord, if the Government of India were so good as to send down a scheme for opinion, they would get the opinions of all the corporations; they would find out all about the scheme in this connection, and I am very hopeful that, if anything of that kind were done, most corporations in India would see that their own interests would lie in inviting out the best class of officers that we can get hold of, and in keeping them as long as possible.

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"Administrative work is, in some cases, so interwoven with scientific work, that little difficulties of some kind may arise, and it would be absurd to take up the time of this Council in dealing with that kind of thing on the present occasion ; but I have been made aware, my Lord, since I came into this house this morning, that there may be a kind of lurking fear in some minds, that, by a scheme of this sort, only experts would be invited from abroad and that local employment would become unfashionable. Now, if there is a man in India who is interested in securing employment for members of his own community, I am that man. I wish to see members of my own community employed ; but I hope I am faithful to the country as a whole so far as to feel that, until members of my community are fully qualified for the work that they have to do, I should prefer the interests of ratepayers generally, the lives and the health of others, to the interests of any community ; and I am quite sure that the better class of all races in the country will have a similar feeling. It is our duty, it is our interest, to try and educate our people up to the highest level obtainable anywhere. But surely nobody here will contend that you should employ a man of the country in preference to one whom you can get out from outside if the lives of our wives, our children and our friends will be better cared for under one class of expert than under the other. While, therefore, I am in perfect sympathy with every body who wants to see all the institutions that instruct our youth brought up to the highest possible pitch of perfection, I do not think the question of whether persons should be employed from here or from anywhere else should at this stage be taken into consideration. In considering the merits of the scheme, what we ought to have is men of first class merit ; and I fear, my Lord, we shall neither get them, nor be able to keep them, if we get them by accident, unless we have some such scheme as I have ventured to propose this morning."

The Hon'ble MR. BUTLER :—"My Lord, the Government of India are always deeply interested in any scheme that will improve the public health, and I recognize the extremely able way in which the Hon'ble Mr. Madge has brought forward his Resolution this morning. I am not concerned to dispute that in India permanent service has attractions over contractual service in certain circumstances, but permanent service is only possible when certain conditions exist."

"I gather from the Hon'ble Mr. Madge's speech that he is referring only to the large corporations. That, indeed, is contained in his Resolution and he must be referring only to the bigger towns because he talks of the separation of the Engineering from the Health section ; it is only in the bigger towns, my Lord, that there are separate engineering establishments."

"Now, the bigger towns in India are very few, and difficulty will come in in creating a service for such a very small area. In fact, this proposed service would extend only to four, five, or possibly six towns in India, and it is very difficult to see—and I for one cannot see—how for such a small area one can get up a permanent service. The whole difficulty comes to a head when one gets to the question of the transferability of incumbents from one corporation to another. As practical men who have had any dealing with administration, we know that every municipality, or that nearly every municipality, would be anxious to keep a good man when it has got one ; it is equally anxious to get rid of an indifferent servant when it has one, and I think that when we come to contemplate the transfer of an Engineer or of a Sanitary or Health officer from Bombay to Calcutta, one will realize that in practice the time has not yet come when this can be done. Therefore, my Lord, the Government of India, while sympathising with the objects which the Hon'ble Mr. Madge has in view, is unable, as a matter of practical expediency, to accept the Resolution."

The Hon'ble MR. MADGE : "My Lord, as nobody has apparently had anything to say, I would simply remark, with reference to small areas, most reforms begin with small areas and gradually extend. I was afraid that the financial objection would have been raised by the Hon'ble Mr. Butler ; but as a matter of fact he has not done so. I suppose the real financial burden would, in the first instance, be no greater

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than it is at present, and municipal resources, as far as I can gather, are gradually extending in all directions, and I know of no direction in which they could better be charged than with the salaries of the class of expert officers to whom I have referred. Then, as regards transfers from one place to another, I quite admit the force of what has been said, but is not that an objection that has already been met by Government to a certain extent in its transfer of officers from one place to another? I do not think we find it difficult as a rule; I know that some critics have said that the transfer of expert officers on some such principles as the Hon'ble Mr. Butler referred to would keep out the incompetent and guard the competent; but that is not the principle that prevails all over the country, and the man himself would have a certain option as to whether he was to be transferred or not. What I consider the real benefit of my scheme is that it will introduce a system that will work gradually, and which would be supported by the gradual increase of municipal revenue all over the country, until we have a system in municipalities which would complement the system in municipalities which the Government itself has found absolutely necessary in other places. It is true that at present there are only a few such large municipalities, but there is no reason why present municipalities should not grow larger, when a scheme of this kind, could not be extended. But I can realise, my Lord, that the Government may see a great deal more than I do, and that I could not press this point against the Government here."

The resolution was put and rejected.

COUNCIL REGULATIONS.

The Hon'ble PANDIT MADAN MOHAN MALAVIYA:

"My Lord, the Resolution that I have the honour to lay before the Council runs as follows:—

"That this Council recommends that the Government may be pleased to appoint a Committee, consisting of official and non-official members, to consider and report what changes should be made in the regulations promulgated under the Indian Councils Act of 1909, so as to remove all legitimate complaints on the score of inequality in the treatment of the various sections of His Majesty's subjects, and in regard to some of the disqualifications and restrictions placed on the choice of candidates seeking election to the Councils; also to ensure that the provision for a non-official majority in the Provincial Councils shall be more effective in practice."

"My Lord, in answer to a question put the other day by my friend the Hon'ble Mr. Sinha, the Government was pleased to say that the regulations which have been framed under the Councils Act were receiving the attention of Government, that the opinions of Local Governments had been invited as to what modifications might be made in them; and that, when those opinions were received, the whole matter would be considered. My Lord, that statement has encouraged me to bring forward this Resolution before the Council earlier than I might otherwise have done; because I have felt that when the opinions of Local Governments have been received by the Government of India, that will be the proper time for the entire subject to be reviewed and for such amendments to be made as might be deemed to be proper. My Lord, it so happened in the past that when the Regulations were being considered by the Government of India, when they were being framed, all sections of the public were not consulted. Our Muhammadan fellow-subjects were consulted, and some zaminders were consulted; but the great body of the educated public were not consulted as to the propriety or otherwise of the proposals which were being considered by the Government. I venture to think that if the proposals which the Government were considering had been made public, and a timely opportunity given to other sections of the community to express their approval or disapproval of the measures that were in contemplation and to make suggestions for improvement, a great deal of the irritation that has undoubtedly been caused would have been avoided, and the regulations would have met with a more cordial reception than they have received. I am therefore anxious, my

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Lord,* that when the opinions of Provincial Governments which have been asked to make recommendations as to amendments, have been received and when the matter is taken up for consideration, the Government should be pleased to appoint some non-official members along with official members to consider all those opinions and to consider what other objections may be brought to the notice of the Government in order that all reasonable complaints may be removed.

"It is unnecessary for me at this stage to repeat what has often been said before, that the country as a whole feels very grateful to the Government for having introduced these measures of constitutional reform out of which the Regulations have arisen. We owe it to these measures that we are here, able to discuss questions of public interest with greater freedom and with greater fulness, and have greater opportunities of bringing matters of public interest to the notice of Government than we had before, and the country does feel deeply grateful to the Government for it. But, my Lord, it is equally true that there has been a great deal of dissatisfaction caused among large and important sections of the community, I may say generally among all non-Moslem communities, by reason of certain mistakes of policy, if I may say so, which have occurred in the framing of these regulations. I draw attention to some of them here in order that they may be prominently before the Government when the matter comes to be dealt with.

"My Lord, we undoubtedly have in this country people of different races and creeds living under the rule of His Majesty; but so far as administrative questions are concerned, *i.e.*, in matters that come up before the Councils, their interests are not divided and they are most certainly not divided on the basis of religion. For instance, to make my meaning clear, I do not know of any question which has ever come up before the Legislative Council either here or in any of the Provinces in which the interests of only one persuasion or religion has been concerned, barring questions such as those relating to the marriage or succession of Indian Christians or of the Brahmos. But with the exception of those measures in which it is understood that the opinions of those only that are concerned are mainly consulted, all other questions that have arisen have been questions which equally affected all sections of His Majesty's subjects. I have not been able to see what administrative question can arise in which there may be a division of interests as between Muhammadans and Hindus or between Christians and Parsis, who all live under the same laws and rules, who live under the same Government, and are all equally subject to every measure of taxation or legislation which may be passed. That being so, my Lord, the best way of providing for the representation of various interests in the Councils would be to let the people generally elect those in whom they have confidence without any regard to their creed, sect or persuasion. Under the old regulations made under the Indian Councils Act of 1892, nobody complained that the persons who were returned to the Councils did not protect the interests of all sections of the community alike. But, my Lord, if that is not to be, if our Muhammadan fellow-subjects, or some of the leaders among them, are determined that they must have separate representation provided for them, then fairness demands that two things should happen. They should be content with separate representation and the measure of that representation should be determined by their proportion to the total population. My Lord, our Muhammadan fellow-subjects are free to say that their interests will not be protected sufficiently by means of the general electorates that may be formed. My own belief is that if the ideas of separation of interests which have recently come into prominence were given up, and if Muhammadans and other communities came forward to elect only such men in whose ability, integrity and public spirit they had confidence, every community would be satisfactorily represented in the Council. I am not opposed, my Lord, to communal representation; I want that men belonging to different communities should have their places in the Councils. I do not want that only members of one community should be represented in the Council or that they should be over-represented. I believe, my Lord, that as we Hindus and Muhammadans, Christians and Parsis, all live under the same Government and are all equally

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affected by the same laws, and as we live with each other every day as members of one body politic, I believe, that under any natural and reasonable arrangement, there would be a sufficient number of representatives of every important persuasion, sect or religion in the general body of persons elected to the Councils, if the ground of election was only ability, integrity and public spirit in the person who was elected. But, my Lord, if that will not satisfy my Muhammadan friends, the utmost they are entitled to ask is that it should be provided that their representation on the Council should not be less than their proportion to the total population. Their proportion to the total population and, in addition to it, the contributions they make to the Government, might be regarded as the two criteria which should determine the measure of representation which they are entitled to ask should be secured to them.

“As matters stand, however, the Council is aware that the minimum measure of representation that has been secured to our Muhammadan fellow-subjects has been fixed not on the basis of their proportion to the total population, as was excellently suggested in the first scheme proposed by Lord Morley, but on the basis also of what is alleged to be their political importance. My Lord, I am anxious that I should not say one word which will cause irritation, and I wish to state our differences with as much fairness and candour as possible; but I am compelled to draw attention to this matter in discussing the question of the amendment of the regulations. Now, my Lord, I do not know what this ‘political importance’ means, and I will not attempt to define it; but I will submit this, that in every civil administration, in every sound system of administration, every member living under it is equally important, and that every member is entitled to claim protection and equality of treatment in the eye of the law, that he is entitled to be regarded as much an object of concern to the head of the Government as any other member living under that Government. That being so, my Lord, I do not understand what special political importance my friends of the Muhammadan community can reasonably claim. At any rate it has not been established on what grounds that political importance is claimed, and I submit that the Muhammadans cannot reasonably ask that they should be given a larger measure of representation than their proportion to the total population justifies. In the Punjab and Eastern Bengal alone our Muhammadan fellow-subjects number over 50 per cent. In no other Provinces do they number more than 20 per cent. But special representation has been secured to them in a much larger measure than that. Now, my Lord, that is one point of complaint, one point of inequality which I beg the Government will be pleased to take into consideration. I submit that there is no reason to support the view that the Muhammadans are politically more important than the Hindus, than Sikhs, than Christians or Parsis or any other communities living in India; and I submit, starting from that point of view, that the Government will be pleased to consider whether their representation should not be placed on the same footing as the representation of any other subjects of His Majesty.

“But, my Lord, if Government are not prepared at this moment to disturb the arrangements that have been made, if the Government are of opinion that at this stage they should allow the minimum of representation which has been guaranteed to the Muhammadans to stand, I do submit that Muhammadans should not be permitted to take part in elections by mixed electorates. What has happened is this. They have secured by means of separate and mixed electorates a larger representation than can in any way be justified. I will give an illustration. Muhammadans form only 14 per cent. of the population in my Province. The Secretary of State said that representation might be secured to them on the assumption that they formed 20 per cent. of the population. My Lord, that was provided; four seats are reserved to be filled up by means of special electorates in which only Muhammadans can take part. In addition to this my Muhammadan fellow-subjects in the United Provinces have been permitted to take part in mixed electorates. Now elections to Municipal and District Boards took place at a time when the gospel of separation of interests had not been

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preached. Muhammadans therefore filled a larger number of seats in the Municipal and District Boards than they were entitled to fill on the basis of their population; and so, my Lord, when the elections by mixed electorates of District and Municipal Boards came on, a number of Muhammadan candidates were put forward, and two of them were elected. That made their number six. But, as though that was not enough, the Government of the United Provinces were pleased to nominate two other Muhammadan gentlemen to the Council; so that there are 8 Muhammadan members out of 26 non-official members in the United Provinces, where they form only 14 per cent. of the population. This has naturally caused a great deal of heart-burning among Hindus and other communities. The cause of this heart-burning ought to be removed. The protection and the privileges which the Government has been pleased to grant to Muhammadans should be extended to other communities also.

“ Complaint on the score of over-representation extends to the case of landholders also. We do not understand, and there are many friends of mine who do not, the principle on which zamindars should be treated as separated from the rest of the population. We do not see the necessity of a separate electorate being provided for landholders also. If any body would care to study the names of the members of this Council or of the Provincial Councils, he will at once be struck by the very large numbers of landholders who have always occupied seats in them. In this very Council, before the present regulations were passed, His Highness the Maharaja of Darbhanga was returned time after time as a member in spite of the fact that many others wanted to contest the seat with him. The Government of the United Provinces took note of the fact and mentioned it in their recommendations to the Government of India, that the landholders did not in that Province require special provisions to ensure their adequate representation. There was no complaint that they did not receive ample representation. Now what has happened? A special electorate has been provided for landholders. Persons paying a certain amount of revenue are entitled to vote at the election of a member who is to represent them separately in the Provincial Councils; and, my Lord, in addition to this, these very electors, who have voted in one place, also vote at other elections as members of District and Municipal Boards, and in that way they secure a larger share of representation than they might otherwise have obtained. Take for instance the case of Oudh. There the Talukdars alone return one member as their representative in the Provincial Legislative Council. In addition to this another Talukdar contested the Municipal seat, and came in as representing the Municipal Boards. The landholders also thus obtained a preponderant share of representation. I do not think that this is satisfactory. In the natural course of things, it is open to everyone, whether a zamindar or non-zamindar, whether he be a Hindu, Christian, Muhammadan or Parsi, to seek the suffrages of his fellow-subjects, and if he enjoys their esteem and confidence he is welcome to represent them. No one would object to him on the ground of his being a landholder or belonging to a particular faith. What is objected to is the special provision by which an undue advantage is given to them over their other fellow-subjects. This special provision of electorates for landholders and Muhammadans, and also the provision that they may take part in mixed electorates, results in this, that those who are non-zamindars and non-Muhammadans are thrown into the background and cannot get a fair share of representation either in the Local or the Supreme Councils. Here for instance, in this Council, we have one Muhammadan gentleman—my friend the Hon'ble the Raja of Mahmudabad—returned by the special electorate of the Muhammadans, and we have my friend the Hon'ble the Nawab Abdul Majid, who was elected by a mixed electorate. That is, while our Muhammadan friends form only 14 per cent. of the population in the United Provinces, they have 50 per cent. of the representation here in this Council. And we have three landholders—my said two friends, and my friend the Hon'ble Raja Partab Bahadur Singh—filling up three out of the four seats allotted to my Provinces. I hope my friends will not

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misunderstand the reference. I mean no disrespect to them personally. I am illustrating how the regulations have worked in my Provinces. I submit that the arrangement requires to be looked into. Such a preponderating representation of one or two communities cannot be said to be just to all sections of the people. As I had said before, I would not object to any number of zamindars or Muhammadans coming into any Council, if they came in only by the confidence which the general electorate has in them. I object to the regulations in that they artificially secure to one or two sections of the community an unduly large share of the representation.

"I will now turn to the inequalities which exist in the regulations in the matter of the franchise. In the case of Muhammadans, it has been provided that if a person pays a tax on an income of Rs. 3,000, or pays land-revenue in the sum of Rs. 3,000, he would be entitled to a vote. In the case of non-Muhammadans, a Hindu, Parsi or Christian might be paying a tax on an income of Rs. 3 lakhs, or land-revenue in the sum of Rs. 3 lakhs, but he is not entitled to a vote as such. Then again, every Muhammadan graduate of five years' standing has been given the privilege of a vote; but a Hindu, Christian or Parsi graduate, though he may be of 30 years' standing, is not entitled to a vote. I do not understand how such glaring inequalities were allowed to come into the regulations and how they were allowed to stand. I do not object to the direct representation which has been extended to our Muhammadan fellow-subject. Personally I should be delighted if the franchise will be further extended and all those who pay an income-tax will be allowed to vote. All that I submit is that the privileges which have been extended to Muhammadans should have been extended, and should be extended, to non-Muhammadans also. These inequalities have given rise to a great deal of resentment, indeed, I may say, to a great deal of bitterness of feeling among large sections of His Majesty's subjects who are entitled to as much consideration at the hands of His Majesty's Government as any other subjects of His Majesty. I do hope that these inequalities will be removed when the revision of the regulations is taken in hand.

"As regards some of the disqualifications, there are some very stringent rules disqualifying a person from standing as a candidate for election to the Council; as, for instance, the one which lays down that if a person has once been dismissed from the Government service, he is disqualified for ever from being elected. The dismissal might have been due to some trumpery cause or to some unfortunate incident; on the other hand, it might have been due to some serious matter. If it were shown that it was due to a want of character in the person dismissed, to moral turpitude or hostility to Government, that would be a just ground for excluding him. But, my Lord, mere dismissal from Government service ought not to be made a ground for disqualifying a man from seeking to represent his fellowmen in the Councils; and I submit that the regulations exceed the limits of reasonableness when they lay down such a disqualification. Then there is a provision that a person shall not be eligible as a member of the Council if he has been declared by the Local Government to be of such reputation and antecedents that his election would in the opinion of the Local Government be contrary to the public interest. I submit that this also is a very hard rule. If there is nothing definite against a man which can be made public and which would deprive him of the good opinion of reasonable men, the right course would be to give the public an opportunity of judging whether they would or would not elect such a person as their representative. And even if a man with something doubtful in his past should come in, it might well be seen whether that would not give him an opportunity of giving a better account of himself. It is not absurd to think that a man of doubtful antecedents might prove to be a good councillor if he is elected to a post of trust and responsibility. There is no appeal against the Local Government's declaration. The person condemned is discredited in the eyes of all people

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for all time without being heard in his defence. I think this is very hard. Every man should be treated fairly and justly. If a man does not deserve to represent his fellowmen, his fellowmen might be trusted to take good care not to return him. These are some of the disqualifications to which I would draw attention.

"So far as non-official majorities in the Provincial Councils are concerned, I submit that the provision has been practically nullified in some Provinces. When the Secretary of State was pleased to announce that he intended to allow a non-official majority to be formed in the Provincial Councils there was a great deal of thanksgiving in the country. It is true that we were sorry to find that he was not prepared to give us a non-official majority in the Imperial Legislative Council. But we accepted the announcement relating to the Provincial Councils with thanks in the hope that in time a provision for a non-official majority in this Council would also come. But the provision made for the Provincial Councils also has, I regret to say, been in some places practically nullified. Happily, in Bengal, out of 49 members 26 have been allowed to be elected, and out of the remaining 23 not more than 18 may be officials. But in the United Provinces out of 46 members not more than 20 are to be elected, and 20 may be, and are, officials, and 6 of the members are nominated. In nominating these 6 members, the Government of the United Provinces has nominated 3 ruling princes, His Highness the Maharaja of Benares, His Highness the Nawab of Rampur, and His Highness the Raja of Tehri. They are all very estimable men. I have not a word to say or suggest against any of them. But they are not directly concerned in the affairs of the United Provinces. They may take a kindly and friendly interest in our welfare, and I believe they do ; but they are not expected to take a keen and active part in the work of the Councils or to know where the shoe pinches and to voice the public demand. A fourth gentleman who has been nominated does not know English. The provision of a majority has thus, as I have said, been rendered nugatory. I submit that there should be a provision that the majority of the members of the Provincial Councils should be elected as in the case of Bengal. I submit, my Lord, that this is an important matter. In the Supreme Council it is impossible to carry any Resolution even if the non-official members should be unanimous in regard to any matter, unless Government has made up its mind to accept the proposal. But the provision made to permit of non-official opinion prevailing in Provincial Councils by constituting a non-official majority in them should be allowed to be effective in practice.

"I have confined my remarks to the regulations so far as they relate to the United Provinces with which I am most familiar. I expect other friends will draw attention to the defects which have been discovered in the regulations relating to the other Provinces. But I may say a few words as to the Punjab. In the Punjab, out of 25 members only 5 are allowed to be elected. Fourteen have been nominated, and the rest are officials. To allow 5 members only out of 25 to be elected seems to be a very unsatisfactory provision for the representation of the people. And the privilege of electing even these 5 members is confined to 9 municipalities out of more than a 100 which exist in the Province. When the revision of the regulations takes place these defects should be remedied. The Government no doubt desire to be just to all parties, and I feel sure therefore that these inequalities will be remedied. But I have suggested, my Lord, the appointment of a Committee of non-official and official members to revise the regulations for the reasons that I have stated before ; so that when the time comes, the complaints of the public may be fairly and fully brought before the Government, and the Government may propound its decision with a full knowledge of the feelings and aspirations of all classes of His Majesty's subjects. With these remarks I commend the Resolution to the acceptance of the Council."

The Hon'ble NAWAB ABDUL MAJID : "My Lord, it is with feelings of regret and surprise that I rise to-day to oppose my friend the Hon'ble Pandit Madan Mohan Malaviya. I feel regret that my friend's remarks to-day which he has addressed in this Council will open up the controversy afresh. The excitement which was prevailing in this country a year ago, I am afraid, will revive again, and we will have the same excitement and the same controversy raging all over

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India again. I am surprised, my Lord, for this reason that it was only the other day that we had a conciliation meeting at Allahabad when about 50 or 60 Muhammadan gentlemen who were present at Nagpur attending the meeting of the Moslem League there; they had come over under the leadership of His Highness the Aga Khan to meet the Hindu leaders in Allahabad to find out a *modus vivendi* by which a feeling of amity may be established between the two communities. At that time certain points were drawn up and they were considered to be the points of controversy upon which the two communities differed, and I am sorry to say that the subject of this Resolution never formed one of those points. But, notwithstanding that, my learned friend the Hon'ble Pandit Madan Mohan Malaviya, a leader of the Hindu community especially of the United Provinces, who was also present there and who took part in the deliberations that day, has come forward and moved this Resolution. My Lord, separate representation given to Muhammadans was decided not as it were suddenly and by a jump, but Government, after full deliberation and considering all the circumstances of the country, and considering the importance of the Muhammadan community as a homogenous community, had come to that decision and had granted them separate representation. My friend has said why it was and on what grounds Government was pleased to do so, what political importance Muhammadans have got that they were given something more than their fair proportion of representation. If I were to enter into and to give this assembly all the reasons of political importance, probably I will be wounding the feelings of many members here, and I will simply confine myself here to say that one of the reasons why the Muhammadans should be considered to have sufficient political importance is this, that it is only a century or a century and a half ago that Muhammadans were the rulers of this country; Hindus were the subject race of this country. How it is possible that people who have lost their sovereignty, they should be considered as having no political importance as compared with the people who were their subjects for centuries and centuries? Now to go further into this question, I will simply put an illustration before this assembly, and it is this. My Hon'ble friend Pandit Madan Mohan Malaviya is a Brahmin and is a leader of the Hindu community: could it be said that a man who belongs to the untouchable class, will he be of the same importance as my friend, because he is one person just as my friend is? To have importance it is not necessary that we should count people by numbers only, but we should consider their position, we should consider their status, we should consider their history and we should also consider whether they are a homogenous people or not. The Muhammadans, who number between sixty and seventy millions in India, they believe in one God and they are a homogenous people; they are not so much divided among themselves as the Hindus are; they unite together as one people. In like manner I could give reasons after reasons, instance after instance, to convince this assembly that it is moonshine to say that Muhammadans are not of sufficient importance, that they should not be given something more than their proportionate share. My Lord, the most cogent reason is this, that the Government whom God has at the present time made our rulers, has come to this decision after full consideration and deliberation that the Muhammadans are of sufficient importance, that they should be given something more than a fair proportionate share, and I do not know on what grounds my friend the Hon'ble Mr. Malaviya comes forward and says 'No, you should give them only according to their numbers and not on the principle of sufficient importance.'

"My friend has complained of another thing, and he said that, besides this separate representation, the Muhammadans have come in by mixed electorates as well. There are many people in this assembly who will recollect the time when this controversy was raging in India, and they know the reason why it was that mixed electorates were allowed to remain in existence. It was simply for this reason that my Hindu brethren—they were all along crying with one shout that you must have mixed electorates if you want to make India one nation. It was on their crying, on their shouting, that the Government, besides establishing separate electorates, established a mixed electorate

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also. But now at the last election, when they found that on account of disunion among themselves, between a Hindu and a Hindu candidate, the Hindu candidates could not gain, but certain Muhammadans have crept in, they say that they have got much more than their share. My friend has quoted my own election from the United Provinces Local Council. My Lord, I say here that there also it was on account of the Muhammadan votes that I got in and I am here standing. My friend and another gentleman from Lucknow by the name of Babu Sri Ram, they were fighting together, and they could not settle their differences themselves. It was for this reason that all the combined Hindu votes could not go for these two gentlemen; the Hindu votes were divided and I got the Muhammadan votes and I got in. Not only the Muhammadan votes, but I got a Christian vote and two Hindu votes also, and by these votes joined together I got into this Council and I am standing here. My friend probably would not have forgotten another conflict that we had before these rules were framed, when there was an election just a few months before the constitution of the present Council. My friend stood for the Local Council and I also stood for the Local Council in Allahabad. The same controversy was repeated again and all the Hindu votes went to the side of my friend and all the Muhammadan votes were given to me, but as they were in a majority he was elected and I failed. However, all these things show that this mixed electorate was established not because that at that time there was any demand by Muhammadans to establish mixed electorates, but on the contrary there was a demand on the side of the Hindus that we must have mixed electorates, because we want to make India one nation, and if you have separation all through you could never gain such an end. After that has failed, now they are turning round and they are complaining against mixed electorates.

“The next question urged by my friend was that, even in the rules which have been framed on the question of franchise, there is no equality between the communities. But my friend has forgotten that, so far as the Hindu elections are concerned, they are based on Municipal and District Boards. To Municipal and District Boards, members are elected by voters, voters who have much lower qualifications than the Muhammadans have. What they do is, that voters elect members for the Municipal and District Boards, and these Municipal and District Boards select members for the Council. There I see there is no reason that they should complain in any way. So far as we Muhammadans were concerned, when Government saw that no such electorate could be formed for us, therefore they fixed a certain other qualification and that qualification was that we should have an income of Rs. 3,000. Well, if my friends wish that they should have the same qualification for the election of their members for the Council, they are quite welcome to it. But they will find that they will be proceeding to a very difficult position.

“But after all, this question of franchise is a very small question, my Lord. This is a question for Government to decide, and this is a question which after deliberation of all the Local Councils and all the members of this Council Government has decided. If it is the wish of Government to revise the franchise, Government are quite welcome to it and my friends are welcome to it, but so far as separate representation is concerned, I again repeat what I said, if that question was opened out, it would cause a great deal of excitement, it would cause a great deal of bad blood between the two communities all over India again.

“The last complaint urged by my friend about our Local Council was that in this Council we have got two or three magnates, for instance, the Nawab of Rampur, the Maharaja of Benares and the Maharaja of Tehri, and these people in his opinion are not desirable people. But my friend has forgotten that these people are independent princes; they possess very large estates in the British possessions, they are the biggest landlords in the British territories, and they are the people best entitled and best experienced to sit in Council and to assist Government by giving their opinion and their advice on the deliberations of the Council. My Lord, I think that these people who have a stake in the country, people who are landed proprietors, people who know the

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country much better than those who, my friend will pardon me if I say so, are politicians by profession—they are much better suited to assist the Government in their deliberations in the Council, because they have a stake in the country. Their advice will be sincere and their advice will go in order to make the Government in this country more stable and more permanent than the advice of those who have no stake in the country; and therefore it was wise, I say, to have these gentlemen as members of the Council; that they should sit there and they should assist the Government in their deliberations.

“My Lord, therefore I submit that before any step is taken and before this Resolution is carried or any hearing is given to this Resolution, Government will look to all these circumstances which I have submitted, and after all it is only a year's trial we have had these regulations working only for a year; how it is possible that Government will be able to decide of the good and bad effects of these regulations in one year; and therefore, my Lord, I oppose the motion of my friend that a Committee should be formed to discuss and decide upon the complaints which may be in the mind of my friend or may be in the minds of other persons. My friend's Resolution to-day in this Council is most inopportune, and I think, my friend will pardon me to say so, that probably he has moved this Resolution under a feeling of excitement and not after great deliberation. If he would have deliberated over the whole thing, if he would have considered the whole consequences, probably he would not have stood up in this Council and made the remarks which he has made to-day.”

The Hon'ble MAHARAJADHIRAJA BAHADUR OF BURDWAN: “My Lord, it is a great pity that my friend, the learned Pandit Madan Mohan Malaviya of Allahabad, should have brought such a controversial question in the Council to-day. No doubt when new regulations are made, in time many defects are likely to be noticed, and already I know of one Local Government which is moving in the matter of consulting non-officials as well as officials as to whether or not certain changes in the regulations would be necessary by the time the next election comes off. It is a great pity too that the Hon'ble Pandit should have moved his Resolution when he knew that the Local Governments were the best judges to consider any such defects that might exist in the regulations, and I think, Sir, that it is a matter for the Local Governments to bring to the notice of the Government of India, and not for one in the body of this Council to move a Resolution in the form that my friend has presented to-day.

“Regarding the Muhammadans, I have little to say, because I am perfectly well aware that they are fully capable of defending themselves. I need hardly assure all my Muhammadan friends here and elsewhere that they have my fullest sympathy, and knowing what I know of the state of Muhammadans in my Province, I am perfectly convinced that they require special protection.

“Now, my Lord, I turn to what concerns me most—the landholders. The landlords' electorate among a few other bright points is one of the bright things that attracted me in an otherwise dull scheme. My Lord, the Hon'ble Pandit has said that, when the regulations were being discussed, only certain Muhammadan gentlemen and zamindars were consulted, but not the educated public. May I ask the Hon'ble Pandit Madan Mohan Malaviya if the British Government have given him a mandate to say that the landlords and the Muhammadans do not form a part of the educated public? Then again, he goes on to say that those who have the confidence of the public should only come in, and that is one of the reasons that he puts forward that there should be no special electorate. Here again, I ask, do then the representatives of the special electorates not possess the confidence of the public? I do not know whose interests the Hon'ble Pandit Madan Mohan Malaviya is representing in Council to-day. When we take into consideration the fact that he is here not because only, as my friend the Hon'ble Nawab Abdul Majid has pointed out, the non-official Hindus in the United Provinces Council had voted for him, but also because many other non-official interests, including probably the Hindu and Muhammadan landholders, voted him to be their representative of the United Provinces Council in the Imperial Council, I do not see how

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the Hon'ble Pandit can represent in this Council only that educated public or educated community (a nomenclature which he and others of a similar mind have for reasons best known to themselves adopted), which he has in view.

"Now, my Lord, I may say that this recognition on the part of the Government of giving the landholders a special electorate is only a tardy recognition. It has come not a moment too soon. I do not go so far as to say that others have not got a stake in the country; for, as soon as the other friends of mine who rather flourish their trumpets and say that they have no such stake in the country realise that they have also a stake in the country, it would be better for the Government and the enlarged Councils. My Lord, the landholders are certainly very grateful to the Government for the special electorate, but I venture to say that, by creating these electorates, Government will in time find that it is one of the wisest steps that they have taken. I do not wish to set class against class. I would much rather as a matter of fact see the system of crystallization of landholders in this country enlarged. In any case, I am sure the next generation of the family of my friend to the left (*points to the Hon'ble Babu Bhupendra Nath Basu*) will come into the landholders' electorate. That will show the landholders are very catholic; they are all-embracing; they want to get into their folds all sorts and conditions of people so long as these satisfy the landholders that they have a stake in the country and are willing to represent the landholders' interests in the Council. Under these circumstances, I do not see what good the Hon'ble Pandit Madan Mohan Malaviya thinks he can bring about by attacking this special electorate of the landholders.

"Now, my Lord, he has made a reference to the election of the Maharaja of Benares, the Raja of Tehri and the Nawab of Rampur on the United Provinces Council. I think it was a most judicious and wise move on the part of Sir John Hewett to have put these Chiefs on his Council, and I would like to see other Provincial Governors follow that example regarding nominations. There is no reason why they should not be there. It does not follow simply because they do not represent British India that the Government of India or Provincial Governments should not get advice from Rulers who themselves know how to rule and who have perhaps different modes of government; and thus be able to give different views to the British Government which might be well worth copying. Under these circumstances, I think it was a wise move on the part of the Lieutenant-Governor of the United Provinces to have appointed these three magnates.

"Then again, my friend, the Hon'ble Pandit, has said that he cannot get a non-official majority in his Local Council because there is one man who does not speak English. I am afraid, my Lord, if being able to speak English be the only criterion of coming into these Councils, then the sooner these Councils cease to exist the better. I do not see why a man who does not speak English should not be on the Council.

"My Lord, there is one other point and I am done. I am afraid, I have already taxed the patience of some of my official friends here, for there has been a great abundance of oratorical literature in the Council to-day; but a moment more and I shall finish. The learned Pandit has mentioned that the landlords also come through District Boards and Municipalities. May I ask why they should not? Or why the Muhammadans should not come through the District Boards and the Municipalities? Does it not show that those gentlemen who always wish to trumpet about and say that they belong to the educated classes do not always take enough interest in these local bodies? If they come forward, if they get the confidence of the voters, they stand just as much a chance of coming in as does a landholder or a Muhammadan! I think, therefore, this plea to be a very weak one.

"With these few words, I beg to suggest that this Resolution should not be accepted by this Council or the Government."

[24TH JANUARY 1911.] [*Lieutenant Malik Umar Hyat Khan ; Maulvi Shamsul Huda.*]

The Hon'ble LIEUTENANT MALIK UMAR HYAT KHAN :—" My Lord, if it were possible, I should have liked to protest against this Resolution being moved in the Council at all. A certain well-known speech delivered at Lahore, in which such subjects were discussed, created such bad feeling between communities that it might have led to the most serious consequences, had it been delivered elsewhere than in the Punjab, where passions are not easily aroused and where loyalty to the existing Government is very strongly pronounced. The carrying of this Resolution will be not only dangerous, but impracticable. In this country not only are there many religions and castes, but there are many sub-divisions of them, which differ so materially from one another, that there are doubts of their being even sub-divisions of the alleged division. Now that India is comparatively calm, to stir it up so that every class may put forward all sorts of claims, to which there will be no end, would be a thing exceedingly inadvisable. I can emphatically say that at this stage there can be hardly any Committee of officials or non-officials, or even of angels if I may say so, that will be able to cope satisfactorily with the question. It will be impossible to satisfy all classes—any class—and naturally those who are not satisfied will be discontented and even aggrieved at the gains of others. This may in the end go a long way towards setting class against class and perhaps cause hatred towards the Government established by law. The present *régime* has been in force for some time and has been accepted by the people and things are quiet. To start the matter afresh might result in a widening of the gulf between the different classes.

"There are so many distinct communities that if they were to be represented on the Councils and elsewhere numerically, they could claim only, say, one-tenth of a man as a member, and unless any fresh orders for such a portion of a man were placed before the Divine Power or until science has so far advanced as to be able to devise means for such division, it would be impossible to produce a so easily divisible being. Instead therefore of dividing atoms, it will be far better, in my opinion, that discretion should rest with the Government, who may, by rotation or otherwise, go on appointing members sometimes from one class and sometimes from another. And this, my Lord I think, is the only possible solution.

"Though it is not in the wording of this Resolution, yet one may perhaps see its purpose and know which community it may be calculated to injure. But we are here not to look after the interests of one class but to represent the whole Indian community in general. I, therefore, not only oppose this Resolution, but strongly object to it.

"Now, my Lord, I want to say a few other words, and they are that it is a source of great regret to me that my friend the Hon'ble Pandit Madan Mohan Malaviya put this Resolution before this Council, with the result that the feelings of Muhammadans and Hindus in this Council, which were not strained before, are now strained. And if this subject had been discussed outside this Council, I think most people would either have left or hissed. If in our own Council such a thing is done, I do not know what cannot be done outside. I think if this speech is published in the papers, it will create very bad feeling just at a time when things are getting on all right and so put back the clock. By this Resolution we have simply made some of our Muhammadan friends go against our friends the Hindus. This would not have happened if the Resolution had not been moved. With these few remarks I move that the Resolution should not be accepted."

The Hon'ble MAULVI SHAMSUL HUDA : " My Lord, I share the regret of my Hon'ble friends who have spoken before me that this Resolution should have been brought forward by my Hon'ble friend, Pandit Madan Mohan Malaviya. If any argument were needed to justify separate representation of the communities, the Resolution brought forward by my friend, and the spirit which animated the speech which he delivered, would, my Lord, furnish that argument. It is all very well to say that Hindus and Muhammadans must be one and that religious differences should not form the basis

[*Maulvi Shamsul Huda.*]

[24TH JANUARY 1911.]

of representation in Council. My friend may be right that most of the questions which arise in Council do not affect specially any particular community; but that is not, I submit, the test by which the question should be judged. It should be judged by the sentiments of the people who claim separate representation. The question is not whether, if this Council were composed entirely of Hindu members, Muhammadan interests would or would not be safeguarded, but the question rather is, would that satisfy the sentiments of the Muhammadan community; and I am here to say most emphatically that in the present state of feelings it would not satisfy their sentiments. I do not desire to enter into the question of the importance of the community. That is a question that has been discussed threadbare and Government have come to a decision on that question, and it will not improve the situation that has been created by the Resolution moved by my friend if this question were discussed in detail. But I would leave it to the Imperial Government to judge to what extent the Muhammadans form an asset in Imperial concerns and what their importance is in this Council as well as in the country. And I say, my Lord, that it is not safe nor just to apply the population test in these matters. And even if the population test were to be applied, I would ask the Imperial Government very strictly to define what the word 'Hindu' means. My Lord, if that question is raised, it will be open to the Muhammadans to ask in what sense the highly educated Hindu gentlemen living in towns like Calcutta really represent the so-called Hindus of the Naga Hills and the Lushai Hills, and the Kukis living in the district of Tippera. It is very convenient for my learned friend to say, only so many are Muhammadans and the rest are all Hindus. But if the matter is looked into a little deeper the question will arise how far persons who do not worship Hindu gods, who are not allowed to enter into Hindu temples and whose touch is considered by highly sacred Brahmins as pollution, are Hindus whom my learned friend is entitled to represent better than the Muhammadan members of this Council. My Lord, I come from the Province of Eastern Bengal and Assam, and there the Muhammadans form nearly two-thirds of the entire population. If the test by which my learned friend wants to regulate representation to the Councils is applied to Eastern Bengal and Assam, we would distinctly gain by such a method. At present, my Lord, there are two Muhammadan members elected from Eastern Bengal and one Hindu member, but as regards the two Muhammadan members the election of one was a mere matter of chance. The votes being equal, it was by casting lots that he was elected. Well, supposing the result had been against the Muhammadan, what would have been the case? In a Province where two-thirds of the population are Muhammadans there would have been one Muhammadan against two Hindus. But, my Lord, we do not grudge that. We do not ask in Eastern Bengal and Assam that representation to the Council should be governed by the test of population only. We consider the importance of the various communities, and in Eastern Bengal we have conceded that our Hindu friends have greater importance than their numerical ratio justifies. And in the same way, my Lord, as we have disadvantages in Eastern Bengal and Assam, the situation is advantageous in the United Provinces. There the Muhammadan population is much smaller than the Hindu population, but in point of education, culture and stake in the country they are as important as the Hindu community. Therefore, my Lord, I submit that the population test is not the right test to be applied. My learned friend no doubt feels indignant that there should be so many Muhammadans in this Council, but before, my Lord, the Reform schemes came into operation, in the Provincial and the Imperial Council there were only one or two Muhammadans, all the rest of the seats were monopolised by our Hindu friends. My friend's conscience was not roused then; it is roused now. My Lord, as many of my friends have said, it is extremely regrettable that this Resolution should have been brought forward, and after all, my Lord, what is the experience which we have gained? It is barely a year that the Reform scheme has come into operation. My Lord, my friend no doubt is a very ardent reformer, but he cannot force the millenium in 24 hours. You must wait and see how the present scheme works. No doubt, there may be mistakes, oversights which may be

[24TH JANUARY 1911.] [*Maulvi Shamsul Huda ; Mr. Madge ; Raja of Mahmudabad.*]

corrected ; but I submit it would be too early to ask the Imperial Government to go back on any question of principle. I think, my Lord, this question of separate representation of the Hindus and the Muhammadans was a question which, for the present at least, had better have been buried. But I am sorry that my learned friend should have considered it necessary at this juncture to bring forward this question which will have the undoubted effect of creating bad feeling between the Hindus and the Muhammadans. My Lord, as I have submitted, the Muhammadans had before this suffered a great deal by neglect, and they had not justice done to them, and what has been done now is that justice has been done, and if there are now more Muhammadans than my friend would wish for, that does not show that the same proportion would remain for all times to come. For instance, my Lord, in the Province of Eastern Bengal, where the Muhammadan population is almost two-thirds of the entire population of the country, even now, in the last election, a number of Muhammadans got into the Local Council from the mixed electorates not because there was a Muhammadan majority but because our Hindu friends boycotted the Local Council, and that is a matter, my Lord, as to which I can appeal to the official representative from Eastern Bengal. My Lord, I strongly oppose the Resolution that has been moved by my Hon'ble friend."

The Hon'ble MR. MADGE : "My Lord, I am afraid that the Hon'ble mover of this Resolution will doubt the sincerity of the opinion that I have sometimes expressed for his earnestness when I proceed to give some reasons for remarking that this Resolution, if it does not exactly want some of the elements of good taste, certainly wants some of the principal elements of sound judgment.

"I had no intention of speaking on this Resolution till I heard the reasons advanced in support of it, and I should like to say that it reminds me of the decisions of the colonial judge whose decisions were always upheld until he began to give his reasons for them. I expect, my Lord, that this is the last place into which any question of race feeling ought to be introduced. I think that there is nothing so likely to embitter feeling amongst the numerous classes in this country as anything that revives racial antagonisms that are known to exist outside. In fact this Council is a sort of crucible into which all antagonisms of that kind come to be crystallized into some really good feeling, and this is the one place in which that kind of good feeling can be crystallized and its results flow out into the country all round us. I think it is rather dangerous at this early stage to bring up race feeling, because at the present stage in which this country is, all of us seem to occupy different standpoints, and until these are harmonised by such friendly discussions as Your Lordship has graciously recommended at our first sitting, it would be premature to run any risk. It does seem to me that our standpoints are so different just now that they are like two squinting eyes turned into a stereoscope ; the picture cannot possibly be made to blend from the standpoints from which different races regard different things. But if friendly discussion here takes the place of race feeling outside, the time will probably come when we may be able to harmonise all these points. I think it is a great pity that any obstruction should be thrown in the way of that kind of harmony."

The Hon'ble RAJA OF MAHMUDABAD : "After having the conference of alliance almost all of us thought that since then we will not bring any controversial subject for discussion before the Council ; but I am extremely sorry to find that we are dragged to that position.

"As regards the Resolution itself, I think it is not the duty of this Council to abolish or amend the principle of separate electorates without the permission of the Home Government. Of course this Council can appoint a Committee to make the Council regulations more effective if the Government thinks it necessary to have any change in the present regulations.

"In my opinion election under the new regulations cannot be treated as a fair trial of the regulations. They should be left as they are at least for two elections more.

[*Raja of Mahmudabad ; Mr. Gokhale.*] [24TH JANUARY 1911.]

"My Lord, I think the position of Muhammadans is more clear and safe than ever, and I earnestly hope that your Government will realise our position and will consider most favourably our request for the separate electorate on the Municipal and District Boards.

"I am not going to say a single word about our political importance; when we say so it is meant only for those who open-mindedly and justly appreciate and recognise it."

The Hon'ble MR. GOKHALE : "My Lord, I intervene in this debate with some reluctance because the discussion has taken a somewhat unfortunate turn and the subject is of such a character that no matter how carefully or guardedly one may express oneself one is apt to be misunderstood by somebody or other. At the same time, now that this discussion has been raised, I think it my duty to those whose views I share that I should state what my position in this matter is. My Lord, I am by birth a Hindu, but for many years it has been the earnest aspiration of my life to work for the advancement of this country only as an Indian; and it was in that spirit, two years ago, when this discussion had taken a somewhat acute form and the Muhammadan community were agitating for special electorates in connection with the new Reforms scheme, that I supported their claim in this Council, and thereby, if I may mention it, incurred to some extent the displeasure of my Hindu brethren throughout the country. The position at that time was this. Under the Indian Councils Act of 1892 there were only general electorates, and the actual working of that Act resulted in a great preponderance of Hindu members in Councils throughout the country. There was no question about this fact; and whatever might have been the explanation of this, this was a sore point with the Muhammadan community, and it was no use saying to them that in the interests of that nationality for which they were all striving they should accept such a position. We had to recognise the actual situation and therefore it was necessary to find a way out of the difficulty. What the Government used to do in those days was that, after the general elections had taken place, such inequality as was noticed was redressed by means of Government nomination. Therefore, every time in all the Provinces the Government used to appoint a certain number of Muhammadan members of the Council by nomination. Now it was justly objected to this arrangement by the Muhammadan community that it was unfair to them that they should come in only by nomination, and they urged that what they wanted that instead of coming in by nomination they should come in by election, such election being confined to their community.

"My Lord, this was on the whole a reasonable position, and I thought it my duty at that time to support the scheme in this Council. I think, at our present stage, special electorates cannot be avoided, and what I have said about the Muhammadans also applies to some extent to the landlord community. In no country throughout the world is it attempted to lay down that elections should be confined to those who represent education. Take England; for a long time property was the basis of all representation. Gradually the basis has been extended and you now have the democracy in its present form, and now we find the educational centres, forming, so to say, special constituencies. All property, in its largest sense, must certainly have a fair share of representation in this country. I do not think, therefore, that any useful purpose is served by objecting to the special representation that has been given either to the Muhammadans or to the landlord classes. Where, however, a legitimate question may be raised, is in regard to the proportion of representation that has been given to these classes, and I think on this point there is no doubt that the bulk of the community have serious reason for complaint. My Lord, the question having been raised, I think it my duty to state that under the existing arrangements the Muhammadan community is over-represented in all the Councils. I think many of our Muhammadan friends admit it themselves when the question is put before them in that way. But here it is well to remember that the fault in this matter is not that of the Government of India. I think the original scheme of the Government of India was an eminently fair scheme. Under that scheme Government

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[*Mr. Gokhale.*]

proposed to give to the Muhammadans such representation partly by mixed electorates and partly by special electorates that the total should be in accordance with their position in the country.

"A great deal has been from time to time said about an expression which the late Viceroy used in his reply to the famous address from a Muhammadan deputation, four years ago, namely, that the political importance of the Muhammadan community must be adequately recognized. I think that all along that expression, so far at any rate as it was used by Lord Minto, has been to a great extent misunderstood. I do not think that the late Viceroy intended to convey that the Muhammadans were politically more important than the Hindus; what he wanted to convey was that the Muhammadans occupied a position of importance in the country. They were so numerous, they had such traditions, they represented such past culture, they had a stake in the country, that it was not desirable to leave them without adequate representation. I do not think that, looked at in that way, any objection need be raised to the statement that the Muhammadan community was a politically important community in the country. They are a minority, but they are the most important minority in the country, and therefore it was necessary that representation should be conceded to them in accordance with their importance.

"In recognizing this importance, however, there is no doubt that the Government have gone too far and that over-representation has been granted to the community; but the responsibility for that, as I was pointing out, is with the Secretary of State and not with the Government of India. The original scheme of the Government of India, as I have already said, was eminently fair. The Secretary of State, no doubt from the best of motives, sought to substitute in its place another scheme theoretically perfect but practically, I believe, rather difficult of application in this country; and when that scheme came to be hotly criticised in England, owing to the exigencies of debate in the House of Lords, he not merely threw it overboard, but he also threw over the Government of India's proposals and himself went much further than the Government of India had even intended. This is the whole position, and the question now is, what can be done? You cannot take away from the Muhammadan community to-day what you gave them only yesterday, and I would say to my Hindu brethren, make the best of the situation in the larger interests of the country.

"My Lord, so far then as the proportion of representation is concerned, I think that there is real ground for complaint, but the matter is not easy to deal with, at any rate for some time. As regards the other points in this Resolution, I think my Hon'ble friend Pandit Madan Mohan Malaviya stands on solid ground. There is no doubt that many of these differences in franchise and qualifications for candidates were perfectly unnecessary, and I am quite sure that when the Government come to revise these regulations they will have no difficulty in removing them if they want to do so. The same thing applies to an elected majority in the Provincial Councils. I think an elected majority in the Provincial Councils would be quite safe. If it is found safe in Bengal, where the relations between the Government and the people have not been quite cordial, there is no reason why it should not do equally well in other Provinces. Such an elected majority will consist of composite elements. There will be the Chambers of Commerce men representing the European community, there will be the landholders, there will be the Muhammadan members, and there will be representatives of the general population; and therefore I do not think that there is any danger even from the official point of view in an elected majority in the Provincial Councils. Moreover, if the Government wanted to pass a law for any Province, and the Provincial Council made any difficulty about it, there is a reserve of power in this Council where there is a standing official majority and where Government will always be able to pass any measure that they please. On these points, therefore, I think that there is a good deal to be said, and when the Government come to reconsider these regulations I hope that something will be done to meet them. My Lord, having said this, I would now make an appeal to my friend the Hon'ble Pandit Madan Mohan Malaviya: I earnestly hope that he will not press his Resolution to a division.

[*Mr. Gokhale ; Mr. Mazharul Haque.*] [24TH JANUARY 1911.]

My Lord, after all we have got to take a large view of this matter. What does it really matter how many Hindus and how many Muhammadans sit in this Council? The more important question is how many of us work and in what spirit we work here? The numbers would matter on some future occasion when probably questions will have to be carried here by the weight of numbers; to-day we certainly do not propose to carry our points by the weight of numbers. As a matter of fact, whether we are many or few, it is only to the moral influence that we exercise on the Government that we have to look at the present stage. Why, my Lord, even if I could defeat the Government to-day I would not do it. I would not do it for this reason; the prestige of the Government is an important asset at the present stage of the country and I would not lightly disturb it. Therefore the question about the numerical representation of Hindus and Muhammadans may be left over for some time. Other points are upon a footing on which I am quite sure that most Muhammadan members here will be willing to join hands with my Hon'ble friend.

"My Lord, before concluding I must express my cordial concurrence with what has been said by my Hon'ble friend Mr. Madge. It is not my good fortune to be often in agreement with my friend, but I most heartily and cordially support what he has said about leaving these questions alone for some time. If a question like this may be raised here, then cow-killing, or the question about Hindu and Muhammadan riots and such others may be raised by somebody else in other places; and then that harmonious co-operation between the two communities which we hope to promote by this Council, and which we hope to see gradually extending all over the country, would most unfortunately be disturbed and the interests which my Hon'ble friend Pandit Madan Mohan Malaviya himself has so well at heart would be seriously jeopardised. With these words I again earnestly appeal to my friend not to press this Resolution."

The Hon'ble MR. MAZHARUL HAQUE:—"My Lord, I extremely regret that my Hon'ble friend Pandit Madan Mohan Malaviya has thought it fit to bring forward this Resolution to-day. At the same time, I, as a representative of the special electorates of the Muhammadans, do most heartily thank the Hon'ble Mr. Gokhale, who has struck the right note in this Council. My Lord, the situation in the country with regard to the Hindu and Muhammadan question is a very serious one. Your Excellency must be aware of the fact, to which my Hon'ble friend Nawab Abdul Majid has referred in this Council, that at Allahabad we had a conference of almost all the leading Muhammadans and, I may say, of all the leading Hindus, to bring about a reconciliation between the two important communities of India. That old and veteran lover of our country, Sir William Wedderburn, was President of that conference; our leader, His Highness the Aga Khan, was present; the Maharaja Bahadur of Darbhanga was present. Almost all the leaders of both communities were present there. We are also aware, my Lord, that Your Excellency, in your utterances before you landed in this country, and in reply to the deputation which we of the Congress presented to Your Excellency, laid stress on the point that we should solve this Hindu-Muhammadan problem. These are earnest attempts that are being made by both Hindus and Muhammadans as well as by the Government to bring about feelings of amity, friendship and brotherliness between the two communities of India. My Lord, I am sorry to say that the Resolution that has been moved to-day will set back the hands of the clock and will certainly be an obstacle in our way in achieving our object. I am afraid that my friend the Hon'ble Pandit Madan Mohan Malaviya, for whom I have very great respect, has done a distinct disservice to this country, which he loves as well as we all do.

"My Lord, my views as regards the special electorates are known to the whole of India. I have never made a secret of them. I am not enamoured of the principle of special electorates. I have said that on the Congress platform, and I have not the least hesitation here before Your Excellency and my colleagues of the Council in saying that I do not believe that the principle is a sound one. My Lord, those lovers of India who are think-

[21TH JANUARY 1911.][*Mr. Mazharul Haque.*]

ing, perhaps dreaming, of a united India, however distant that time may be, cannot but believe that, as an abstract principle, this representation of Muhammadans by special electorates cannot but to a certain extent retard that consummation. So much as regards abstract principle. But there are some people in this country who ride a principle to death, who do not take into account the circumstances of the country, but go on harping on one string. My Lord, have my Hindu friends ever considered the question, why the Muhammadans demanded this special electorate? Surely it was not a gratuitous demand on their part, surely there must have been some reason for this extraordinary demand, and the answer has been given, and very correctly given, by the Hon'ble Mr. Gokhale, that in all cases barring a few exceptions here and there, in most of these elections either in the Legislative Councils or the municipalities or District Boards the Muhammadans were absolutely nowhere. Why? As I have said elsewhere, the reason is that both Hindu and Muhammadan candidates came forward as candidates not on the ground of any difference of principle in their views. No. They all trotted out their religion as the chief reason for the support of their constituents. The Hindu candidate said that because he was a Hindu they should vote for him, and the Muhammadan candidate said that because he was a Muhammadan, the constituency should vote for him. The result was that the Muhammadans, being in the minority, were defeated. That was the chief reason, my Lord, why the Muhammadans went up with a deputation to Your Excellency's predecessor and demanded special electorate. Well, we have to take these circumstances into consideration in coming to a right conclusion as regards this matter. As my friend the Hon'ble Mr. Gokhale has said, you must recognize these privileges which the Muhammadans have received at the hands of the Government; they are not going to give them up easily; they will fight and they will fight for them to the very bitter end. Then where is the necessity of raising this question in this Council? Here we ought to be friends. If we are lovers of our country, as I believe the Hon'ble Pandit Madan Mohan Malaviya is, we ought to eschew all these contentious matters; we ought to come here with open mind and with feelings of brotherhood that we may serve our country in the best manner possible. My Lord, I believe that the principle of mixed electorates, which is recognized in these regulations, is really the ultimate principle upon which India, and the Indian Parliament of the future, will work. My Lord, it was only a couple of years ago that when this principle of mixed electorates was being fought out by the Hindus and Muhammadans, I had the pleasure and honour of working in the company of my then leader, the Hon'ble Mr. Ali Imam (I cannot call him my leader now, he has gone over to the official side) and, Sir, we fought and fought amidst abuses and anathemas for this principle of mixed electorates, because I believed that the time will come, and it will soon come, when Hindus and Muhammadans will join hands and work together. Then there will be no class distinction, there will be no sectarianism in the country, and there will be no room for these special electorates. But I hope and trust that my Hon'ble friend Pandit Madan Mohan Malaviya will carefully consider the present situation, and abstain from bringing such matters here in this Council. Perhaps in this Council it does not matter much as we are all one here; but the thing that does matter is the views of the people outside this Council. Last Christmas when I was at Allahabad I was surprised, I may say I was amazed, to find the bitterness of feeling between the Hindus and Muhammadans. In the early nineties I was in the United Provinces myself, and know of the friendship that then existed between them; but unfortunately something has happened, and now they are on the brink of boycotting each other. I hope that this bitter feeling will not spread to other parts of the country. In my own Province of Behar, my Lord, I am proud to say that Hindus and Muhammadans work hand in hand; we never work in the spirit of antagonism to each other. If there arises any difference of opinion, the leaders sit together, and decide in a few minutes. I think, if that spirit, that feeling of which I have spoken, should ever prevail in the whole India, the fate of my country is sealed. Here in this Council it is our duty not to bring forward such Resolutions, which

[*Mr. Mazharul Haque ; Nawab Saiyid Muhammad* [24TH JANUARY 1911.]
Sahib Bahadur ; Babu Bhupendra Nath Basu.]

will wound or embitter the feelings of any of the two communities. That is the true work of a true patriot in these days, my Lord. I may say one thing more, my Lord, and that is that if my Hon'ble friend had not moved this Resolution in the spirit in which he has done and attacked his Muhammadan brethren in the language in which he has done, perhaps I would have supported him in this Resolution, because I believe there is necessity for a revision of these regulations; there are very many inconsistencies, and there are real and legitimate grievances. I will give one example about which there is a certain amount of feeling in my own Province. In the Local Councils we have got what is called double-distilled representation. There are voters who vote for certain men called delegates, and these delegates vote for the candidates. The result is that practically (I could give names but I abstain from doing so) we find that some of the candidates who had really got a large number of votes in the electorates have as a matter of fact been defeated, because the delegate who had been nominated to vote for a certain candidate turned round and voted for some one else or for himself. There have been cases of this kind. Such grievances should be remedied. My Lord, had not my friend moved this Resolution in the spirit in which he has done I would have supported him; but after the speech which he has made, I cannot conscientiously support his Resolution, and with these few remarks, I oppose him, and most strongly oppose him."

The Hon'ble NAWAB SAIYID MUHAMMAD SAHIB BAHADUR: "My Lord, when I came to this Council this morning, I had no intention of taking part in the discussion, but after hearing the speech of my Hon'ble friend Pandit Madan Mohan Malaviya, I think that I ought to say a word or two on one or two points raised in the speech. My friend Mr. Malaviya spoke at considerable length about the special representation granted to Muhammadans; but at the end of his remarks on this subject he said that he had no objection to communal representation and to any number of Muhammadans getting into the Councils by the general electorate, and I shall not therefore say anything on these points. But he went on to say that if this special representation is kept up, the provision which allows Muhammadans to take part in the general elections should be done away with. I am sorry to say that I cannot agree with my Hon'ble friend, and I hope I shall not be misunderstood if I say so. I gather from the speech of my Hon'ble friend that his object in advocating general elections is to unite the two communities of India, and if the provision that allows Muhammadans to take part in the general elections is taken out, the object which he has in view will certainly be defeated, because that is the only existing link between the two communities so far as representation on the Councils is concerned. And I greatly regret that he has brought up this question at a time when efforts are being made to adjust differences between Hindus and Muhammadans, an object which has Your Lordship's hearty support and which Your Excellency was pleased to give expression to while replying to the deputation headed by Sir William Wedderburn which waited on Your Excellency the other day. And I join with my Hon'ble friend Mr. Gokhale in making a personal appeal to Pandit Madan Mohan Malaviya to be good enough to withdraw this Resolution."

The Hon'ble BABU BHUPENDRA NATH BASU: "My Lord, though there is something to be said for the view that the Resolution had better not be brought up before Your Lordship's Council at the present moment, there is also much to be said on the other side that it is not to the interest of the body politic that the widespread discontent that is felt in the country should not be voiced in Your Lordship's Council. I do not think that those of my friends in this Council who have for very good and sufficient reasons deprecated further discussion on this subject to-day will deny that there is considerable feeling on this subject in the country; and I conceive it our duty to place that feeling before Your Lordship, and I go further and I say that we should be false to ourselves and false to our position in Your Lordship's Council if we kept back from Your Lordship's knowledge what was passing through the mind of the country. My Lord, Your Lordship was not in India when

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the reform scheme was first announced by the despatch which came from England over the signature of Lord Morley. There was rejoicing throughout the land. Every community, all shades of opinion were agreed that since the history of British India began no such measure had been inaugurated and that the reform scheme promised a bright future for India; and, my Lord, for the first time I think in the history of British India also, men of various creeds holding opinions widely divergent, all joined together in offering their congratulations to Your Excellency's noble predecessor. That was the feeling of the country when the first announcement was made. Then, my Lord, came the regulations. They spread a deep sense of disappointment over the whole country. I will speak more definitely about my own Province, the Province of Bengal. There, my Lord, some of the leading men in Bengal (I do not say that they consisted of all the leading men, for in that case my Hon'ble friend to my right, the Hon'ble Maharajadhiraj Bahadur, would at once get angry), some of the leading men in Bengal, whose opinions have carried great weight among my countrymen, who have been in the forefront of the political life of this country, in all India, who had been honourably known as leaders of moderate thought, as exponents of moderate ideals of reform, they went to the length of drawing up a statement showing in what way the regulations had dealt unfairly with the aspirations of the people. My Lord, there is such a thing as how to do a thing well and how to do a thing in time. I mean no disparagement to the community, the class which my Hon'ble friend to my right represents, or to the community which is so ably represented here by my friend to my left, the Hon'ble Mr. Haque, and his colleagues. What I say, my Lord, is this, that the great middle classes of India, I shall not say the educated community, for that would give great offence to my friend to the right who and his class have carefully held themselves aloof, have been fighting for these reforms for the last 25 years, and they have been fighting, my Lord, under great obloquy, under great disadvantage; they had been at one time in the early days stigmatised as rebels, and sedition-mongers, as enemies of British rule. My Lord, one of your distinguished predecessors compared them to that presumptuous person who tried to hold in his hands the reins of Phoebus and upon whom came the thunderbolts of Jupiter. My Lord, we have been in the shade and in the cold for these 25 years. We have suffered every inconvenience that a small body in India of growing influence has to suffer because it ventures to dictate to an all-powerful bureaucratic Government the principles upon which civilized government should be carried on, because we have had the presumption in the past to tell the Government that all its ways were not of the best, and among the manifold blessings and advantages which this Government had brought to the country there were great defects and drawbacks to which the bureaucracy were subject. Your Lordship coming fresh from England can easily appreciate our position for the last 25 years and more. And, my Lord, when this reform comes, may I ask my Hon'ble friends who have been characterising the Resolution of the Hon'ble Pandit Malaviya as inopportune, what is the position of this class who have been fighting for these reforms for the last 25 years and more under such adverse circumstances as I have just placed before Your Lordship; and may I ask where do the middle and the professional classes, I shall not say the educated community, find a place? The reform scheme has given a special status to our Muhammadan brethren. I for my part do not grieve over it though we have much to say about the methods by which that status has been secured and the disproportionate recognition there has been given to it. My Lord, if the future of India is ever to be realized, it will be through the agency and through the help of my Moslem brethren. My Lord, to them was said that all mankind was equal; their great lesson in the past has been the absolute equality of man against man; and the sooner the Hindus realize that lesson, the better it will be for them.

“My Lord, the Muhammadan community of India have got special representation. The landed interests, which certainly must have a potent voice in the Councils of the Empire, have got a direct recognition. May I ask my friend Mr. Gokhale and others where is the recognition accorded to the middle class of

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India? Somewhere, my Lord, very faintly amongst the musty pages of the Government Gazettes, it has been said that the Local Councils will afford to the middle and the professional classes an opportunity of getting into the Supreme Council. My Lord, it is probably not known that the franchise which the Local Councils exercise is by no means confined or restricted to any particular class. I will take the example of my own Council, the Local Council of the Government of West Bengal. That I am here to-day in Your Lordship's Council is by a mere accident, because, my Lord, my Hon'ble friends who represent the aristocracy of Bengal made a great tactical blunder, because they put three of themselves forward to contest the seat, and the result was, my Lord, that when they were three of them fighting, I stole in. That is how I have come in and my friend Mr. Sachchidananda Sinha; he was only two votes removed from one of the members of the aristocracy. Therefore I say, my Lord, that it is a legitimate grievance to us that these noblemen, who have got their own special constituencies, who can come here by direct representation elected by members of their own classes, have also the privilege of fighting us when we seek election from the Local Councils. And, Your Lordship, even to-day in the twentieth century, it is not necessary for me to point out the great and preponderating influence which wealth, position, ancient lineage possess in these matters. It is very difficult for middle class men without the adventitious aid either of wealth or of lineage or of social status and position to fight these great magnates. That, my Lord, I think is a legitimate grievance. Then take the Local Councils themselves. There we have got the representatives of the landed classes, of the Muhammadan community, but none given specifically to the middle class. My Lord, I do not complain of the landed classes either. No Council in my country would be perfect but for their presence; a Council would be poor indeed if it missed the picturesque phraseology and the imposing presence of my friend to the right. I freely concede to him the position he has claimed as one of the natural leaders of the country. But, my Lord, taking his class in the Bengal Council, with which I am familiar, and where we have got 26 elected members, we have got, in the first place, five of the landed gentry elected by themselves. Then, my Lord, our District Boards and Municipalities are so constituted that three landlords have come in as representatives of District Boards or of Municipalities; so that out of a total number of 26, we have got eight gentlemen representing purely and solely landed interests of the country. On the top of that, my Lord, we have got two gentlemen of the same class nominated by Government, so that out of the 26, we have got 10 men belonging to the landed class. I again have had the great favour of a nomination as representing the middle classes in the Local Council, but for which I should have been disqualified.

"And now I come to another question which my friend, the Hon'ble Pandit Madan Mohan Malaviya, has raised—the equality of franchise. On this side, I do not think that my Muhammadan friends will raise any complaint. Whereas a Muhammadan graduate of five years' standing can seek election, my Lord, the gentleman who occupies at present the position of Vice-Chancellor of the Calcutta University with such distinction and ability is disqualified. So it might be said of the gentleman who was until lately the Vice-Chancellor of the Allahabad University, Mr. Sunder Lall. That is our position. Are these not legitimate subjects of grievance to us, the middle class people of India? And now, my Lord, that the question is going to be discussed, is it not right and proper that we should bring this matter to the notice of this Council, to the notice of Your Lordship and to the notice of the country? These are the things of which we have been complaining.

"Then, my Lord, as regards our Muhammadan fellow countrymen, as I have said, I always recognise that they are a great asset to the country, to the Government and to ourselves. I do not propose, I have not the time, to discuss the question of separate electorates; many of us believe that these separate electorates can only do harm. But I do not think my Muhammadan friends will deny that their position in these Councils is much stronger than what justice demands should be in reference to the other communities. My

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Lord, I can do no better than quote Your Excellency's noble words: 'special privileges to one community mean disabilities to another.' I shall be the last person, and my friends who are in sympathy with me will be the last persons, to see that proper representation is not given to the Muhammadan community. But I believe all fair-minded Muhammadans will agree that their numerical position in the Councils is far from justifiable. My Lord, in some Provinces special electorates have been created for the Muhammadans, because they are in a minority. In others again special electorates have been created for them because they are in the majority. In Eastern Bengal, for instance, the Muhammadans have a majority of nearly 2 against 1. They form a majority of the Members of the District Boards. My friend from behind, the Hon'ble Mr. Huda, says that it is not so. I understand, my Lord, though they are in a minority in the Municipalities, they are in the majority in the District Boards. But apart from that, if they are in a minority, it has been owing, I will not blame them, to the lack of education and enterprise in their own community for which they are rapidly making up. I believe, my Lord, that these are points which should be borne in mind when we are considering the revision of the regulations. There are besides matters of detail apart from questions of principle which should well be considered.

"There is another matter, my Lord, about the qualification of candidates. Such qualifications have limited them to members of District Boards and Municipalities. My Lord, what would be the House of Commons in England if every Member were to be a member of a County Council? That has been felt as a great grievance and it has been felt to debar many distinguished and able men from coming into Your Lordship's Council or into the Local Councils. These are the few observations that I venture to address to Your Lordship. They are matters of great importance and ought to be seriously considered. I ask my colleagues to put away from their minds all questions of feeling. It is a serious matter in which large interests are involved and ought to be very seriously considered. We are in the position of judges, or, if not of judges, at least of jurors, and we ought to put away from our minds all questions of prejudice, all questions of feeling and all questions of passion, and we should consider this matter calmly and dispassionately, in the best interests of the country."

The Hon'ble MR. JENKINS: "Your Excellency, after the reply to the question which was asked at the Council meeting which was held on the 3rd of this month I think the Hon'ble Pandit Madan Mohan Malaviya can hardly have expected that Government would be able to accept his Resolution. I suppose therefore that his object was to have the subject discussed in Council, and, if that was so, his object has been fully attained. I am afraid, however, that it is not likely to have any further result at present. In these matters the Government of India are bound by the law. Under section 6 of the Indian Councils Act of 1909, the regulations which are made by the Governor General in Council are subject to the approval of the Secretary of State. That means that we are not able to give our assent to any amendments or alterations to the regulations until we have assured ourselves that the Secretary of State will support us. In fact we are not able to make promises which we may be unable to perform. In the second place regulations under this section 'shall not be subject to alteration or amendment by the Legislative Council of the Governor General.' Now it is evident that if Hon'ble Members, without moving a definite amendment, make proposals or suggestions for the amendment of regulations in this Council, and if the Government of India should signify their assent thereto, that would practically be an amendment of the rules and regulations, and to this extent it would, in my opinion, be a deviation from the very salutary provisions of the law. I need hardly point out that the object of this provision is clear. One of the first requisites of a sound constitution is that it should at any rate possess some degree of stability, and it would be intolerable if every few months or every year it was within the power of any Member of this Council to throw the whole constitution into the melting pot in order to attempt to recast it. Our present constitution has been in force for hardly more than a year. It is barely yet in working order, and the necessity

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for a provision of this kind such as is contained in section 6 of the Indian Councils Act of 1909 has been most clearly shown by the course of the debate to-day. To-day we have had proposals made here not for amendments in matters of detail in these regulations, not merely for the moderate reform of them, but proposals for complete revolution. Now it will readily be understood that in these circumstances I am unable to commit Government to any declaration whatever upon many of the proposals and suggestions which have been made. There is however one point upon which I am authorised to make a definite declaration, and that is the question of separate representation for Muhammadans. Government have given the fullest and clearest pledges to Muhammadans that they should have separate representation. Whether these pledges ought or ought not to have been given may be a matter of opinion, but they have been given and I am sure that the strongest opponent of the arrangement which was made will realise upon reflection that the Government of India cannot honourably recede from their undertaking unless and until the Muhammadans themselves come forward and say that they no longer require the privilege. It will be the duty of the Hindus, assisted perhaps by the Hon'ble Mr. Mazharul Haque, to convert them. I am sure I do not know how long the process of conversion will take or whether it will be effected at all. After the course which the debate has taken in Council, I feel it is hardly necessary for me to say very much more upon the subject. There is one statement which was made by the Hon'ble Pandit Madan Mohan Malaviya which I should like to correct. The sooner mistakes of facts are corrected the better. He complained that under the present regulations a Government servant who is dismissed for what reason whatever the cause of dismissal may have been is for ever disqualified from sitting in the Legislative Council. Now that is not the case. If it were so I would agree that it would be absolutely unjustifiable, but as a matter of fact the Local Government or the Government of India, as the case may be, possess the power to waive that disqualification, and I have no doubt that disqualification would be waived in any suitable case.

"The Hon'ble Pandit has objected to the separate constituency for the landlords. It occurred to me at the time, why should he stop at the landlords? Why should he not go on to the special constituency representing Commerce and Industry? The one is just as much a special constituency as the other. And why not go on to the Universities? If his theory that every subject of His Majesty is entitled to an equal right of representation no more and no less, then the University seats are absolutely indefensible. Then again the question was raised of the exclusion of Muhammadans from general constituencies. I should like the Hon'ble mover to consider whether that would really be to the advantage of the cause which he has so much at heart, and whether their exclusion would not really tend to intensify the separation which he so much deplures.

"I should have wished to be able to deal with, or to be able to touch upon, the observations made by the Hon'ble Babu Bhupendra Nath Basu in his very eloquent appeal on behalf of the down-trodden middle classes of India. I am precluded from so doing, because I really do not know what he means by the great middle classes of India. He evidently means a body which is quite different from anything that is intended by the term middle class anywhere else. In England or in any country in Europe the middle classes are to be found scattered among the landowners, the Universities, certainly in commerce and industry, and certainly throughout the Municipalities and throughout all local bodies; and until I am more closely acquainted with what he really means by the great middle class, I regret to say that I am entirely unable to deal with any of his propositions. I hope, my Lord, it will not be thought that because at the present moment we are unable to accept the proposal, that means that we are altogether inaccessible to any advice or suggestions. On the contrary, we very readily welcome suggestions from whatever source they come, and I can assure the Hon'ble mover that all that has been said in Council to-day will receive the fullest attention and will be very carefully considered when these regulations come up for revision."

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The Hon'ble PANDIT MADAN MOHAN MALAVIYA: "My Lord, after the remarks which have fallen from the Hon'ble the Home Member, it is not necessary for me to press this Resolution upon the acceptance of Government; but I feel it my duty to make just a few observations in order to explain the situation a little more clearly than perhaps I did before, because I see from many remarks which have been made that there has been a great deal of misapprehension caused by this Resolution. My Lord, I do not think I yield to any friend of mine in this Council in the desire to see that discussions on public questions in this Council and elsewhere should be conducted in a spirit of amity and goodwill towards our fellow-subjects. But I think that many will agree with me that that object cannot be gained by concealing the real facts of the situation and by pretending to accept matters which are not really making for amity and goodwill as establishing goodwill and promoting good feeling among the people. Now, my Lord, ever since these regulations were passed, as has been pointed out by my Hon'ble friend Babu Bhupendra Nath Basu, there has been a great deal of public opinion in this country against the regulations. By memorials addressed to Your Excellency's noble predecessor, by resolutions passed by the Indian National Congress, by resolutions passed at the Provincial Conferences, the attention of Government has been repeatedly drawn to the dissatisfaction which is felt by a large body of non-Mussulman subjects of His Majesty in this country, and my Lord,—I may be wrong,—but I think that I have done my duty in bringing this matter to the notice of the Government in view of the announcement that the regulations are shortly to be revised.

"My Lord, a great deal has been said—in fact not a little high falutin'—has been indulged in—as to the feelings which have been excited by my Resolution. I appeal to Your Excellency and to every member of this Council to say whether there was anything in the remarks which I made which should have given rise to angry and excited remarks and to offensive talk which should never have been indulged in in the presence of Your Excellency in this Council. My Lord, I shall not follow the evil example set by some of my critics and will abstain from indulging in retort. We ought all to remember that we are all subjects now of one Government. It is our duty to represent the grievances of all sections of His Majesty's subjects. It is undeniable that there is a large body of public opinion in the country, with which I am in touch, which is dissatisfied with the existing regulations. The only way to remove that dissatisfaction is to bring the causes which have given rise to it before the Government, in the earnest hope that they will be removed as they ought to be removed.

"Now, my Lord, I am glad that this opportunity has occurred of having a free discussion on this question. Many points have been made clear; for instance, the declaration of the Hon'ble the Home Member has made it clear that the Government considers itself bound to adhere to the principle of separate electorates for the Muhammadans until the Muhammadans themselves have been educated by the efforts of Mr. Haque and other persons into recognising that separate electorates are an evil and that they do not make for amity and goodwill.

"But even so, the question yet remains whether the provision of communal representation by the exact methods which have been provided is the right course to follow, and whether the evil of it cannot be minimised; and I hope that, when the regulations are being revised, this aspect of the case will be taken into consideration by the Government. My Lord, I am fully aware that the regulations could not be amended without a reference to the Secretary of State. It was therefore that I took care to suggest that the Government should be pleased to appoint a Committee to consider and report what changes should be made in the regulations. And I hope, my Lord, that the discussion to-day has shown to the Government what changes should be made in order to remove some at least of the causes of dissatisfaction.

"In view of what has fallen from the Hon'ble the Home Member I do not press this Resolution, but I resume my seat in the confident hope that the inequalities which have been pointed out and many others which exist in the

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regulations will be removed in spite of the evident wish of some persons that they should not be removed ; and I hope that, when these inequalities have been removed, much of the cause of the soreness of feeling which exists at present will have been removed."

The Resolution was withdrawn.

EXECUTIVE COUNCIL FOR THE UNITED PROVINCES.

The Hon'ble MR. SACHCHIDANANDA SINHA : "My Lord, the Resolution which I have the honour to submit to this Council runs in the following terms :—

'That with reference to section 3, sub-section (2), of the Indian Councils Act, 1909 this Council recommends to the Governor General in Council that action may be taken by him with a view to the creation of a Council in the United Provinces of Agra and Oudh, for the purpose of assisting the Lieutenant-Governor in the Executive Government of the Province.'

"So far as the Province of Agra is concerned, the subject-matter of the Resolution, which I am submitting to this Council, dates back to a time far distant from now—as far back as 1833. In that year a Charter Act was passed. Under section 56 of this Act it was laid down that the then Bengal Presidency was to be divided into two Governments, the Presidency of Fort William and the Presidency of Agra, each to be administered by a Governor and a Council composed of 3 members. Two years later, however, in 1835, another Act of Parliament was passed by which the provisions of section 56 of the earlier Act of 1833 were suspended and held in abeyance and the Government of India were authorised to appoint a Lieutenant-Governor for the Presidency of Agra ; and this was done. Similarly, my Lord, in 1853, when a new Charter Act was passed, it was provided that a Government in Council should be established in the Lower Provinces, *i.e.*, in the Presidency of Fort William, with 3 members. This, however, was not carried out at the time, so that, as the Report of the Decentralization Commission points out, it is quite clear from these earlier Acts of 1833 and 1853 that 'the original intention was, that as large separate Provinces were called into being, this form of administration should be applied to them also.' Now, my Lord, the provisions of these Acts have not been repealed and are only held in abeyance. Later, in the course of the discussions in 1867 and 1868, in connection with the Orissa famine, the question of presidency government or council government as against personal government, came up for discussion before the Government of India, and the discussion was published at the time in the *Gazette*. I find from a reference to it that such distinguished administrators and jurists as Sir Henry Maine, Sir Bartle Frere and Sir William Grey, the last the Lieutenant-Governor of the Lower Provinces at that time, were in favour of a council government for the Lower Provinces. Lord Lawrence, the then Governor General, was however opposed to it and so also was Sir William Muir, who was, I believe, the Finance Minister at the time. But even Sir William Muir, though he was opposed to a Council being established, recorded his opinion as to the advantages of a council government over personal government as follows :—

'Where (he said) the whole power of Government vests in a single individual, it is never safe to relax a certain measure of oversight. For, however good a thing it is to have the personal activity and responsibility proper to individual action, you are at the same time liable to personal idiosyncrasies, to an over-zeal or activity in some particular direction, and, sometimes, also, to the prevalence of a crotchet, or (but this rarely) to remissness or unwillingness to grapple with some special question or perhaps to neglect altogether some special department. Therefore, a certain degree of control is indispensable.'

"Later, in connection with Sir Charles Aitchison's scheme for the reconstitution of the public services in 1888, this matter was again taken up and discussed, but nothing came of it. Finally, my Lord, three years ago the question was taken up and threshed out by the Royal Commission on Decentralization. The Commission visited all the important centres in the country, went about from

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place to place, collected a mass of valuable evidence, sifted it, analysed it, and ultimately submitted a report recommending the establishment of Council Government in all the important Provinces of the country. The whole subject is discussed in Chapter X of their luminous report, but I may read out to the Council two short passages :

‘ With the development of administration in all its branches, the growth of important industrial interests, the spread of education and political aspirations and the growing tendency of the public to criticise the administration and to appeal to the highest executive tribunal, the Lieutenant-Governors of the larger Provinces are clearly overburdened.’

“ The Commission went, however, much further than that. They not only recommended the establishment of council governments in the larger provinces on the ground of strain to or overwork on the part of the Lieutenant-Governors, but they based it on much higher ground. They said :—

‘ Further, even if a Lieutenant-Governor could dispose of all the work demanding consideration at the hands of a Provincial Government, we think that such powers are too wide to be expediently entrusted to one man, however able or zealous.’

“ The recommendation of the Commission was practically accepted by the Government of India, who in their Despatch (dated the 1st October 1908) to Lord Morley, on the Reform Scheme, embodied it in the following passage :—

‘ In conclusion, we have one more observation to make. We recognize that the effect of our proposals will be to throw a greater burden on the heads of Local Governments, not only by reason of the actual increase of work caused by the longer sittings of the Legislative Councils, but also because there will be considerable responsibility in dealing with the recommendations of those councils. It may be that experience will show the desirability of strengthening the hands of Lieutenant-Governors by the creation of Executive Councils..... and assisting the Governors of Madras and Bombay, by enlarging the Councils which now exist in those Presidencies.’

“ The provision, my Lord, was ultimately embodied by Lord Morley in his India Bill of 1909, and members of this Council are aware that no feature of the Reform Scheme had given the people of this country greater satisfaction than the embodiment of this principle of the constitution of presidency government or council government in the India Bill. When the House of Lords deleted section 3 of the Bill, which authorised the establishment of such governments in the different provinces, there was very great agitation all over the country for the restoration of clause 3 of the Bill, and in that particular matter, my Lord, I am glad to say, such was the unanimity of feeling in India that Hindu and Muhammadan leaders came on the same platform to protest against the deletion of that clause. In Calcutta a very important meeting was held, presided over by the Nawab of Dacca, and in that meeting and, in fact, throughout the whole discussion of and agitation on the subject, the most important and patriotic part was taken by the Hon’ble Mr. Ali Imam, who made speeches at different centres advocating strongly that this clause 3 should be restored by the House of Commons, so that it might be possible for the Government to establish council governments in the larger provinces. Unfortunately, my Lord, that was not done, and the provisions were embodied in the Bill in the House of Commons in a form which was not quite satisfactory to the people of this country. In the form as it now stands it rests with the Government of India to create councils in the larger Provinces (except the Lower Provinces) by Proclamation, and if the Proclamation lies on the table of the House of Commons and the House of Lords for 40 days and no objection is taken, then a Council Government can be taken to be established.

“ So much, my Lord, for the history of the measure. In regard to the advantages of a system of council government, I do not think that it would be justifiable on my part to address this Council at any length. These advantages are summarised under four heads in the Report of the Royal Commission on Decentralization. Speaking briefly, the point is that a council government ensures stability and continuity of policy as against fluctuations in it, and as against the operation of personal views, and may be of personal idiosyncrasies in the Government. These are very important considerations. As happily put by Lord Morley, the advantage is that the judgment of the Governor or the

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Lieutenant-Governor is 'fortified and enlarged by two or more competent advisers with an official and responsible share in his deliberations.' But apart from that I find a reference to the subject in Mills' book on *Representative Government*, written with special reference to council governments in India as established in the Presidencies of Madras and Bombay. This is what Mill wrote :—

'This mode of conducting the highest class of administrative business is one of the most successful instances of the adaptation of means to ends which political history, not hitherto very prolific in works of skill and contrivance, has yet to show. It is one of the acquisitions with which the art of politics has been enriched by the experience of the East India Company's rule.'

"My Lord, I do not think it is necessary for me—after this whole-hearted appreciation of Mill—to dwell on the advantages of a council system of Government. The Government of India have already accepted the principle and carried it out in the Lower Provinces of Behar, West Bengal, and Orissa. My prayer now is that the same system be established in the United Provinces of Agra and Oudh, and I think I am justified in pressing their claim. Writing in 1867-68, in the first edition of his standard work called *Indian Polity*, Sir George Chesney discussed the question of the establishment of council government both in the Lower Provinces as they stood in those days and the Province of Agra. Sir George Chesney was of opinion that whereas a council government was necessary even in those days in the Lower Provinces of Behar, Bengal and Orissa, no such system of administration was called for at the time in the then North-Western Provinces. Writing, however, 25 years later, in the last edition of *Indian Polity*, Sir George Chesney, who had just retired from the post of the Military Member of the Executive Council had modified his opinion so far as to advocate the establishment of council governments for the United Provinces. It may be stated that during this long interval the area and population of the Province of Agra had been largely augmented by the amalgamation with it, in 1877, of the Province of Oudh. This is that Sir George wrote in 1895 :—

'In regard to administration, the charge (the United Provinces) is as important as Bengal. It comprises 49 districts as against 47 in the latter (this has reference to the number of districts in the Lower Provinces before the partition) nearly twice as many as in Bombay, and more than thrice the number of districts in Madras, and every consideration which makes for styling the head of the Bengal Government a Governor, applies equally to this great Province. Here also, as in Bengal, the Governor should be aided by a Council. The amount of business to be transacted here is beyond the capacity of a single administrator to deal with properly, while the Province has arrived at a condition when the vigour and impulse to progress which the rule of one man can impart may be fully replaced by the greater continuity of policy which would be secured under the administration of a Governor aided by a Council. So far from the head of the administration losing by the change—not to mention the relief from the pressure of work now imposed on a single man, and that a great deal of business which has now to be disposed of in his name by irresponsible Secretaries would then fall to be dealt with by members of the Government with recognised authority—it would be of great advantage to the Governor if all appointments and promotions in the public service of this Province, a much larger body than that in Madras and Bombay, were made in consultation with and on the joint responsibility of colleagues, instead of at his sole pleasure.'

"I submit, my Lord, that this opinion of Sir George Chesney should carry great weight with members of this Council. Sir George was not an irresponsible non-official, but one who held one of the highest appointments in the Executive Government of this country and was in intimate touch with the Government of the land. It is now 16 years since Sir George so emphatically recorded his opinion, and during this period there has been remarkable progress in the United Provinces in all directions. I submit that, judged by any reasonable test, the United Provinces are now entitled to have a council government—whether we take into account the number of districts as remarked by Sir George Chesney or whether we take the test of population. We have 48 millions in the United Provinces against 19 millions in Bombay, 38 millions in Madras and 51 millions in the Lower Provinces. After the Lower Provinces it is the next largest Province in population. Taking another test, that of the amount of land-revenue, we pay—as I showed in my Budget speech

[24TH JANUARY 1911.] [*Mr. Sachchidananda Sinha ; Lieutenant Malik Umar Hyat Khan.*]

last year—a much larger amount than any other Province except Madras. Our Provincial Legislative Council is quite as large as that of the Lower Provinces, while our University has under its jurisdiction educational institutions no less in number than the University of Calcutta. That being so, I submit, my Lord, that a large Province of 48 millions, revelling in the luxury of two highest judicial tribunals, the High Court at Allahabad consisting of 7 Judges, and the Judicial Commissioner's Court at Lucknow—as against only one High Court which the Lower Provinces share jointly with Eastern Bengal and Assam—is entitled to have a Council government.

“My Lord, the opponents of this reform—about which I assure You Lordship there is a very strong feeling in the United Provinces amongst educated Indians of all classes, Hindu and Muhammadan—say that we Indians in this matter are actuated more or less by sentimental considerations, as, it is said, we think that if a Council government be established, at least one of the members will be a Native of India. My Lord, I am far from denying that sentiment plays a very important part in this matter, but at the same time the reasons why we desire the establishment of Council government and the admission into it of Indians are not based purely on sentimental grounds, but because we honestly believe that the admission of Indians into Executive Councils is a great safeguard ; for, before any measure can be brought forward in a Legislative Council, the Government will have been in a position to appreciate and come to know and realise the feelings of the Indians through their Indian representative in the Council. The introduction of Indians into the Executive Councils in other Provinces, and particularly in that of the Government of India, has been a success, as was testified to by Your Lordship's predecessor, and I do not think there is any reason why we should not have the same privilege extended to us in the United Provinces. On these grounds, my Lord, I think the United Provinces should be given the benefit of a more progressive and a more liberal administration than that provided for in one-man rule, by being endowed with an Executive Council.”

The Hon'ble LIEUTENANT MALIK UMAR HYAT KHAN: “My Lord, the present Resolution of my Hon'ble Colleague seems to be like his curious questions. While living in the extreme east of India, he shows himself to be an authority on the affairs of the extreme west like the North-West Frontier Province and the Punjab. I must, however, congratulate him this time on dealing with the politics of a Province which, though not his own, is somewhat nearer. But this delight is somewhat tempered with the regret that he has overlooked the claims of Eastern Bengal which once formed a part of his own Bengal Government. I am also sorry for my poor Province which has been lost sight of in the present Resolution. But as we are connected with it, I most respectfully beg to ask that this Resolution may be postponed till I have brought up a similar Resolution for the Punjab and other Hon'ble Members for their respective Provinces so that the claims of all may be equally considered. Otherwise, I would beg to ask permission to move that all Provinces should receive this benefit, if it be so, as I can not see why one Province should enjoy a privilege which is denied to others when their claims are equal.

“My Lord, the administrations of the Punjab and the United Provinces are carried with equal efficiency, and though my Hon'ble friend wants to force such a Council on to the latter, I doubt whether it will be received favourably by the administration or the public concerned. I think that before even moving this resolution those connected with the Provinces should have been thoroughly sounded and opinions of officials and non-officials taken.

“This Resolution, my Lord, as well as any other Resolutions which may involve expenditure, should, in my opinion, be postponed until the Budget is presented, and then, if the Budget permits, we may indulge in such luxuries, if an Executive Council can be considered a luxury, though, in my opinion, it would be neither a luxury nor a necessity. Sub-section (2) of section 3 of the Indian Councils Act requires the drafting of a proclamation which has to be submitted to the British Parliament before anything can be finally

[*Lieutenant Malik Umar Hyat Khan ; Mr. Sinha ;* [24TH JANUARY 1911.]
the President ; Pandit Madan Mohan Malaviya.]

decided. Of this no mention has been made in the Resolution. But if such a proclamation, after being drafted, has to remain under consideration for at least sixty days and most probably for the next session of Parliament, it can very well await the presentation of the Budget in this Council.

"Another objection of mine, my Lord, is that during the last five years the United Provinces have received an enormous sum of money from Imperial revenues, while the Punjab has received hardly anything in comparison. If this Resolution be allowed to be carried and an Executive Council is to be created for the Provinces of Agra and Oudh, it will make the Government of these Provinces more expensive, and it may involve the payment of some contribution from the Imperial revenues. In this way other Provinces will suffer in general, and the Punjab, whose claims are often overlooked, will suffer in particular.

"My Lord, about sixty years ago we did a great service to the United Provinces as many Punjabis were serving there to protect their inhabitants. We, therefore, deserve more consideration at the hands of the Government of India than those Provinces. I was so glad to read in one of my Hon'ble colleague's favourite papers that he takes more interest in the Punjab than the Punjab members.

The Hon'ble MR. SINHA :—"My Lord, I rise to a point of order. I submit that the fact of my taking or not taking more interest in the Punjab than the Punjab members is not at all relevant to the debate."

His Excellency THE PRESIDENT :—"I feel sure the Hon'ble Member did not mean to say anything that would hurt or give displeasure to Mr. Sinha. I trust the Hon'ble Member will bear out what I say."

The Hon'ble LIEUTENANT MALIK UMAR HYAT KHAN : "I did not mean to hurt his feelings at all, but if his feelings are hurt I beg his pardon and I hope that he will kindly ask the Government of India to give the money, that may be spent on the Council, to the Punjab, for which we will be very thankful."

The Hon'ble PANDIT MADAN MOHAN MALAVIYA : "My Lord, I have much pleasure in supporting the Resolution which has been moved by the Hon'ble Mr. Sinha. The case of the United Provinces has been very ably put by my friend, and I do not think that I need take up the time of the Council by speaking at any great length. There are just a few points to which I wish to draw Your Excellency's attention. The United Provinces have been very unfortunate in not having been given a Council Government during all these 70 years. In 1833 it was enacted by the Charter Act of that year that there should be constituted a separate Presidency for Agra, with a Governor and an Executive Council ; but as my friend has pointed out, two years later it was resolved, mainly on the ground that the measure would involve an increase of expenditure, to postpone action under the Act. It was made permissible by another Act passed two years later for the Governor General to appoint a Lieutenant-Governor for the Province for such time as the provision of the Act of 1833 was not brought into force. It was contemplated that a Council Government should be established even when the Charter Act of 1853 was passed. The provisions of the Act of 1833 have never been repealed, and it is nothing but a misfortune of the Province that, as a matter of fact, a Council has not so long been established there. The revenues of the Government of the United Provinces have vastly increased since 1833 ; the population has also increased ; the large Province of Oudh has been annexed to it, and the administration has become much more complex and difficult during the several decades that have passed. Our brethren of the Madras Presidency have been enjoying the benefits of a Council Government all these hundred years and so also the people of the Bombay Presidency ; and now, my Lord, our friends in Bengal have also been given the advantage of a Council Government. There seems to be no reason why the same benefit should not be extended to the United Provinces now.

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"The advantages of a Council Government have been well dealt with by the writers whom my friend has quoted, but I will invite Your Excellency's attention to the practical results of the want of such a Government in my Province. I will refer only to recent events : the Lieutenant-Governor of our Province, the Hon'ble Sir John Hewett, had, owing to ill-health, to take six months' leave last year. He has now been deputed by the Government of India to attend to the arrangements for the Coronation Durbar. On both these occasions, my Lord, a temporary appointment has had to be made. And I mean no disrespect to the gentleman who has been appointed to officiate on both these occasions, when I say that under the existing system, during the time of the absence of the permanent incumbent of the office of the Lieutenant-Governor, it is mostly mere routine work that is carried on, no new measure is likely to be initiated and much progress cannot be achieved. If we had a Council Government where two senior members of the Civil Service were associated with the Lieutenant-Governor in his work, the gentleman who officiated would feel naturally more freedom and more confidence in pushing on the progress of the Province. This, my Lord, is only one recent instance of the disadvantage of a single-man rule. Besides this, we have found that progress has been much more satisfactory and much greater in the Provinces of Madras, Bombay and Bengal. We in the United Provinces have contributed, as a reference to the Government Gazette or the Budget Statements year after year would show, more in the shape of land-revenue than any other Province in India ; and yet, my Lord, in all matters which directly affect the people in the matter of education, in the matter of sanitation, in the industrial development of the Provinces, we are nowhere compared with the Provinces of Madras, Bengal and Bombay. Now, my Lord, it seems to us that if we had a Council Government the progress of the Province would be much better assured, there would be a continuity of policy and greater systematic progress all round ; and for these reasons, I earnestly support the Resolution of my Hon'ble friend, and hope that Your Excellency will be pleased to take steps to secure to us the benefit of a Council Government at an early date. I may mention that when the Indian Councils Act was being considered in the House of Lords, one of the arguments advanced by Lord Curzon against the creation of an Executive Council for my Provinces was that he did not feel sure how the Taluqdars of Oudh would like the change. But there can be no doubt that even they would like it. Several of the Taluqdars have expressed themselves openly in favour of the establishment of an Executive Council in the United Provinces, and many other members of the Provincial Council have expressed themselves in favour of the change. And, my Lord, now that a Council has been established in Bengal, the injustice of the existing arrangement has become more glaring ; the people of the United Provinces strongly feel that they should not be kept out of the benefits of a Council Government any longer when the sister Province of Bengal also is enjoying these benefits. There is absolutely no reason for withholding such a Government from us any longer. The population of Bengal is only three or four millions more than that of the United Provinces, and in every other respect ours is not a less important Province than Bengal. I hope the Resolution will commend itself to Your Excellency's Government, and that they will take steps at an early date to establish a Council Government in the United Provinces."

The Hon'ble MR. HOLMS : "My Lord, as the official representative of the United Provinces it is perhaps desirable that I should say a few words regarding the Resolution which has been brought forward with great moderation by my Hon'ble friend on the right, of whose connection with the United Provinces I am well aware. I do not propose to follow him into the historical aspect of the case nor into his discussion on the relative advantages of a council government and government by an individual. The recommendations of the Royal Commission on Decentralisation in this matter have been given effect to in the Province of Bengal. There was no representative among the members of that Commission of the northern Provinces of India, and possibly had there been a representative of those Provinces the recommendations of the Commission, in certain particulars at all events, might have been of a less general character and might have

[*Mr. Holms ; Mr. Mazharul Haque.*]

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recognised more fully the particular needs of particular Provinces. What is suitable for Bengal is not necessarily suitable for the United Provinces. But apart from any question of the merits of government by council, which cannot be treated as a generally accepted article of political faith in India, we have now going on in the Province of Bengal the object lesson to which reference has been made. The experiment, however, has been treated as a completed experiment, as if the object lesson were over and the results shown on the black board. This experiment has only been in force for a few months. The Hon'ble Member treats it as a chemical experiment which has been completed and of which the results are well known. The ingredients have been got together, the materials are there, the crucible is ready, and the ingredients have been mixed. All chemical experiments take some period of time, whether long or short, to evidence their results. We have still to wait for the results of this experiment. It is possible that all may come well ; that the experiment may be successful. It is possible that there may be some defect in the material, defect in the crucible, defect in the ingredients or defect in the mixing of the ingredients, and that there may be an explosion. But still, whatever the result of the experiment, I think it will be a wise policy for us to wait and see what happens. I have only one other point to refer to. My Hon'ble friend has mentioned that the educated opinion of the United Provinces is entirely in favour of council government. I have reason to believe that this is not altogether the case ; there is a considerable body of educated opinion, the opinion of men of standing and position, which recognises the advantages for the present of a more personal form of government. I only wish to mention this to correct the somewhat sweeping statement of my Hon'ble friend, and I would again suggest that it would be wise to wait for the result of the experiment in Bengal before extending this measure to the Province which I have the honour to represent."

The Hon'ble MR. MAZHARUL HAQUE :—"My Lord, although I do not belong to the United Provinces, and although my Hon'ble friend the Malik Sahib will take exception to my speaking on that ground, as he has done to my Hon'ble friend Mr. Sinha's moving such a Resolution, I think I ought not to sit quiet and support this Resolution with a silent vote.

"My Lord, there is not the least doubt, and I do not think that there will be very many politicians who will disagree with me, that the principle of government by Council is to be preferred to that of government by one individual. There are advantages which I need not dilate upon in this Council ; but the greatest advantage that would accrue to the United Provinces Government would be, as pointed out by my Hon'ble friend Mr. Sinha, that, if following the precedence of the Bombay, Madras and Bengal Governments, they have an Executive Council, they are sure to have an Indian Member in it. At present, my Lord, the United Provinces Government (I am speaking without meaning any offence to anybody) is merely obsessed by official ideas and it requires some Indian opinion by which it should be leavened. I have had connection with the United Provinces and I know the Provinces very well. As a matter of fact, the moment we from Behar pass out of our boundary into that of the neighbouring Province we think that we have come into a different country. I know, my Lord, I have got that feeling, and on many occasions that I had to go there I came away with the idea that we of Behar could not possibly live happily in the United Provinces ; there the official bureaucracy being all-powerful. The excuse given by the rulers, who do not want to give any right to any community under their rule, is that the people are not prepared for it. That is an excuse that we always hear from official lips. My Lord, it may be said of any people that they will never be prepared for the right unless they get it. I submit that that excuse ought not to be indulged in now as regards the United Provinces. It has been sufficiently long under the British administration to deserve a Council of its own.

"My Lord, my friend, the Hon'ble Malik Sahib, has said that this Resolution ought to be postponed until he brings in a Resolution for Council government for his own province. I promise my Hon'ble friend that if he brought such a Resolution, he will have my vote. I do not see any reason why the Punjab should not have a Council, if it is fit for Council government.

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"My Lord, the time has come in my humble opinion when Government should take us a little more into its confidence. Of course a happy beginning has been made by the reforms, but another step should be taken by giving an Executive Council to the United Provinces. The people are absolutely ripe for it. I have no doubt any number of eminent men, able men, will be forthcoming who will be able to do the work in the Council. The United Provinces are too unwieldy a jurisdiction, and I am afraid, if Your Lordship does not give them a Council, there will be a partition of that Province on the lines we have seen in Bengal, and there will be agitation, and most likely there will be another Babu Bhupendra Nath Bose (I do not mean *our* Babu Bhupendra Nath Bose, but some one of his position) who will get up, and then there will be a scene in the Council. There is no doubt that the Province has become too unwieldy for one man to govern it, and I do not think that he can govern it properly. On these grounds, although I am an outsider (I belong to the province of Behar), I most heartily support the Resolution of my Hon'ble friend Mr. Sinha."

The Hon'ble RAJA OF PARTABGARH : "My Lord, I am the only member of this distinguished assembly who does not know English and am, therefore, afraid that Your Excellency and the Hon'ble Members may not appreciate my speech. But I feel it my duty to support the Resolution so ably moved by my Hon'ble friend Mr. Sinha as I have every reason to believe that the establishment of an Executive Council in the United Provinces is in my humble opinion an urgent necessity."

The Hon'ble MR. JENKINS :—"My Lord, I do not propose to enter into the question of the merits or demerits of Council Government or Government by a Lieutenant-Governor or Chief Commissioner. The arguments are perfectly well known to all those who take some interest in the question. Now I have been brought up, all my service has been put in, under a Council Government, and I might naturally be supposed to have some predilection for it. At the same time I cannot say that I have that confidence which has been expressed by some Hon'ble Members in absolute superiority of Council Government. It seems to me that it depends, like most things, altogether upon the conditions. I am not blind to the merits of Government by a Lieutenant-Governor. In that case the source of power is more evident, more accessible, and that is a very great thing indeed in this country. The criterion which I would apply is this. If the work of a Province is neither so heavy nor so complicated as to be beyond the ability of one man, then I say on all grounds of economy and good administration it should be one man's charge—there should be a Lieutenant-Governor or a Chief Commissioner. But the moment the work becomes such a burden that one man cannot properly discharge it, cannot properly look after it, and he has to delegate his functions to irresponsible subordinates, when, in plain English, that form of Government becomes a sham, then it is time to give it up and have resort to Council Government. The question therefore is whether this stage has been reached in the United Provinces. As far as we are aware, in the present time and under the present administration certainly not. The Lieutenant-Governor, Sir John Hewett, is not only a man of supreme ability, but he possesses marvellous powers of dealing quickly and efficiently with business. In this I think it is probable that he has very seldom been surpassed. Well, he himself states that he does not want a Council ; and his administration is universally approved and has found universal acceptance. Then, again, we have to consider the inexpediency of imposing a Council upon a reluctant Lieutenant-Governor, which is a very serious thing to do. It is absolutely essential to the success of Council work that the head of the Province and his colleagues should work in cordial co-operation. If they do not, I am not at all certain that at such periods the Council form of Government may not be one of the worst possible. Therefore, we have come to the conclusion that as long as Sir John Hewett continues to be Lieutenant-Governor of the United Provinces, we should take no action towards the provision of a Council. After that we shall see."

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The Hon'ble MR. SACHCHIDANANDA SINHA: "My Lord, I shall confine myself to the observations of the Hon'ble Home Member, as it does not seem to me necessary to notice the remarks of the Hon'ble Mr. Holms. The Hon'ble Mr. Jenkins has not chosen to go into the debatable points in regard to the excellence or otherwise of Council Government. He has contented himself by saying that, so far as his information goes, such conditions have not arisen that the Lieutenant-Governor cannot cope with the work. His view seems to be that a Local Government must first pretty well come to a deadlock before the proposal of an Executive Council can be entertained. I wonder if this test was applied in the case of the Lower Provinces in endowing them with an Executive Council. I doubt if it was so. My Lord, in my opening remarks I was careful enough studiously to avoid any personal reference to Sir John Hewett. If I am now driven to make any personal references, it is only because the Hon'ble Member has imported into the discussion the Lieutenant-Governor's name. In the United Provinces and the Punjab the whole work is done by the Lieutenant-Governor with the aid of a number of Secretaries, and although technically, in name, it is all done by the Lieutenant-Governor, I do not think I am going beyond the facts in saying that a good deal of the work is done by the Chief Secretaries and Secretaries, who, of course, purport to do the work on behalf of the Lieutenant-Governor. That in substance, I contend, is work done in Council with the aid of two or three colleagues; only the disadvantages are that whereas in Councils the colleagues are of equal position, fully competent men, senior officers and thoroughly qualified, in the other case the Secretaries are comparatively junior officers, and they have all the power and do all the work, but without the responsibilities which attach to Executive Members of Council. And to my mind therefore this is a distinction without a difference. I therefore submit that the Home Member's argument does not satisfy me. I shall be the first person to testify to the vast energy and indefatigability of Sir John Hewett. My point however is that Sir John Hewett is shortly going to Delhi and soon after that he will probably be retiring, so that we cannot discuss this Resolution with Sir John in view. And I say it without any disparagement to the members of the Civil Service, for whom I have great respect, that there are not many Sir John Hewetts in that body. The question, therefore, of Sir John Hewett being a ceaseless, untiring and indefatigable worker does not at all arise. The principle for which I contend is wholly independent of personalities, and I think I have made out a case for the Home Member to concede to us this privilege."

The Council divided:—

Ayes—18.

The Hon'ble Nawab Saiyid Muhammad; the Hon'ble Mr. Subba Rao; the Hon'ble Raja of Kurupam; the Hon'ble Mr. Gokhale; the Hon'ble Mr. Mudholkar; the Hon'ble Mr. Chitnavis; the Hon'ble Mr. Dadabhoy; the Hon'ble Sir Vithaldas Thackersey; the Hon'ble Pandit Madan Mohan Malaviya; the Hon'ble Nawab Abdul Majid; the Hon'ble Raja of Partabgarh; the Hon'ble Raja of Mahmudabad; the Hon'ble Maulvi Shams-ul-Huda; the Hon'ble Raja of Dighapatia; the Hon'ble Mr. Ghuznavi; the Hon'ble Maharajadhiraja of Burdwan; the Hon'ble Babu Bhupendra Nath Basu; the Hon'ble Mr. Sachchidananda Sinha; the Hon'ble Mr. Mazharul Haque.

Noes—40.

The Hon'ble Mr. Andrew; the Hon'ble Mr. Quin; the Hon'ble Mr. Birkmyre; the Hon'ble Mr. Madge; the Hon'ble Mr. Grahalm; the Hon'ble Mr. Monteath; the Hon'ble Sir Sassoon David; the Hon'ble Mr. Phillips; the Hon'ble Mr. Gates; the Hon'ble Maung Bah Too; the Hon'ble Malik Umar Hyat Khan; the Hon'ble Khan Zulfikar Ali Khan; the Hon'ble Kour Sahib of Patiala; the Hon'ble Lieutenant-Colonel Davies; the Hon'ble Mr. Slacke; the Hon'ble Mr. Stewart Wilson; the Hon'ble Mr. Dempster; the Hon'ble Sir Douglas Haig; the Hon'ble Sir T. R. Wynne; the Hon'ble Mr. Kenrick; the Hon'ble Mr. Jenkins; the Hon'ble Mr. Carlyle; the Hon'ble Mr. Butler; the Hon'ble Mr. Syed Ali Imam; the Hon'ble Sir G. F.

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[Division.]

Wilson; the Hon'ble Major General Sir Robert Scallon; the Hon'ble Mr. Earle; the Hon'ble Sir Lionel Jacob; the Hon'ble Mr. Porter; the Hon'ble Mr. Robertson; the Hon'ble Mr. Brunyate; the Hon'ble Mr. Wood; the Hon'ble Mr. LeMesurier; the Hon'ble Mr. Holms; the Hon'ble Mr. Meston; the Hon'ble Mr. Fremantle; the Hon'ble Mr. Todhunter; the Hon'ble Surgeon-General Lukis; the Hon'ble Mr. Graves; the Hon'ble Mr. Macpherson.

So the resolution was rejected.

The Council adjourned to Wednesday, the 25th January 1911.

J. M. MACPHERSON,

Secy. to the Govt. of India,

Legislative Department.

CALCUTTA;

The 3rd February 1911. }

APPENDIX A.

India Office, London,
29th July 1910.

Revenue,
No. 50.

To His Excellency the Right Honourable the Governor General of
India in Council.

MY LORD,

I HAVE considered in Council the letter of Your Excellency's Government No. 253 (Finance), dated the 28th October 1909, submitting for my sanction proposals from the Government of Madras (1) for establishing on a permanent footing a Department of Industries and the appointment thereto of Mr. Chatterton as Director ; and (2) for the appointment of experts in the dyeing, weaving, and leather industries, and of an assistant to the Director.

2. Under this scheme technical education would remain under the charge of the Director of Public Instruction, while Mr. Chatterton, as head of the Department of Industries, would control industrial instruction and deal with industrial questions. His duties would extend to " pioneering " new industries, resuscitating old ones, and fostering generally the industrial development of the province.

3. In submitting their proposals to you, the Madras Government announced that they have accepted the principle that there should be a separate Department of Industries, and had appointed Mr. Chatterton Director of Industries. They explained that so long as the term of Mr. Chatterton's appointment was limited to the period sanctioned by me in my despatch of the 24th August 1906, these changes would amount to little more than alteration in designation and simplification of procedure ; and that as Mr. Chatterton was taking 19 months' leave to Europe, no immediate progress would be made with the scheme.

4. My sanction to Mr. Chatterton's appointment as Director of Industrial and Technical Inquiries was limited to five years, and will expire in August 1911. In thus limiting the term of the appointment and in directing that it should be regarded as an experiment to be judged by the results, I took occasion to explain the doubts which I felt about a policy of attempting to create industries by State intervention. * * * *

5. In support of the measures which have been taken to create a separate Department of Industries and to appoint Mr. Chatterton Director, the Government of Madras urge that Mr. Chatterton's provisional appointment has already given results of considerable value, and that the Ootacamund Industrial Conference has pronounced in favour of thus fostering industrial development in the Presidency. It also urged that the control of industrial education is in itself sufficient to justify the appointment of a permanent Director of Industries.

6. I have examined the account which the Madras Government have given of the attempts to create new industries in the province. The results represent considerable labour and ingenuity, but they are not of a character to remove my doubts as to the utility of State effort in this direction, unless it is strictly limited to industrial instruction and avoids the semblance of a commercial venture. So limited, interference with private enterprise is avoided, while there still remains an ample and well-defined sphere of activity. The limit disregarded, there is the danger that the new State industry will either remain a petty and ineffective plaything, or will become a costly and hazardous speculation. I sympathise with the Conference and the Madras Government in their anxiety for the industrial development of the province, but I think that

it is more likely to be retarded than promoted by the diversion to State managed commercial enterprises of funds which are urgently required for the extension of industrial and technical instruction.

7. The policy which I am prepared to sanction is that State funds may be expended upon familiarising the people with such improvements in the methods of production as modern science and the practice of European countries can suggest; further than this the State should not go and it must be left to private enterprise to demonstrate that these improvements can be adopted with commercial advantage. Within the limits here indicated it appears to me that the objects which the industrial conference had in view can all be accomplished by means of technical and industrial school; it is in such schools that a knowledge of new industries and new processes can be imparted, that the use of new implements can best be taught, and the technical skill of the artisans most readily improved. In a leather school the method of chrome tanning can be demonstrated and taught; in a weaving school the indigenous hand loom can be improved and the advantage of the improvement demonstrated. If the schools are properly managed they will supply the private capitalist with instructed workmen and with all the information he requires for a commercial venture. To convert the leather or weaving school into a Government factory in order to demonstrate that articles can be manufactured and sold to the public at a profit goes, in my view, beyond what is desirable and beyond what is found necessary in other provinces. My objections do not extend to the establishment of a bureau of industrial information, or to the dissemination from such a centre of intelligence and advice regarding new industries, processes, or appliances, provided that nothing is done calculated to interfere with private enterprise.

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8. I accept the view of the Madras Government that a special officer is required to supervise and extend industrial education in the Presidency, and I agree to Mr. Chatterton being so employed; but I am not prepared to sanction a separate Department of Industries with a separate Director. The officer holding the new post may be designated Superintendent of Industrial Education and he should be made subordinate to the Director of Public Instruction. I accept your proposal that R1,250—50—1,500 a month should be the normal salary of the new post, but I see no sufficient reason for granting Mr. Chatterton a personal salary at a higher rate. Mr. Chatterton will therefore as Superintendent of Industrial Education continue to receive the salary of R1,250—50—1,500 a month, and exchange compensation allowance, which were sanctioned for him by my despatch No. 120 (Public), dated 24th August 1906.

9. I also sanction the creation of the following appointments proposed by you, on the condition that they are for instructional purposes only:—

- (a) A dyeing expert.
- (b) A weaving expert.
- (c) A leather expert.

As regards the proposed assistant to Mr. Chatterton, the necessity for the post should be reconsidered with reference to my decision that the Superintendent of Industrial Education should not undertake to demonstrate commercially, by the establishment of factories, the merits of new industries and new processes.

10. I will take steps to select and engage a dyeing and a leather expert on suitable salaries, and propose that the former's engagement should be for a term of two years, and that of the latter for a term of three years, in the first instance. The officer required for the post of weaving expert may, as you propose, be recruited in India on a three years' engagement, and on a salary not exceeding R400 a month.

I have, etc.,

MORLEY OF BLACKBURN.

Dated the 30th November 1901.

From—The HONOURABLE MR. EARDLEY NORTON, Chairman of the Indian Aluminium Company (Limited), Madras,

To—The Secretary to the Government of India, Finance and Commerce Department (through the Chief Secretary to the Government of Madras).

THE Directors of this Company respectfully solicit your consideration of the following subject.

On the 8th May last a letter was submitted to the Government of India protesting against the establishment of additional institutions similar to the School of Arts in Madras as being exceedingly detrimental to the interests of this Company and of others engaged in metal-working industries, and as being also opposed to the declared policy of Government that private enterprise should not be interfered with. Since writing the above, the Directors' apprehension that the proposed competition with Government would seriously injure this Company's prospects has been fully realised. Many people have expressed their desire to invest in the Company, but have refrained from doing so until the policy of Government has once for all been declared. They rightly argue that if competition were to be encountered upon the lines adopted by the School of Arts in Madras, it would be impossible for the Company to pay anything like a reasonable dividend, even if it succeeded in avoiding a loss. The proposed action of Government has, unfortunately, had the effect of disquieting some of the shareholders in the Company who are now desirous of selling their shares—a desire very detrimental to the Company's interest at a time when increased capital is being placed on the market. As, however, the Directors have a considerable sum of money at their disposal, only half the capital having been called up, it was recently resolved that a complete outfit of stamping, drawing and spinning machinery should be purchased in England, and estimates from different firms have been received. The Directors now learn, however, that a similar order has been placed by Government for the use of the Madras School of Arts, and as there are already two such outfits in Bombay, and one in Poona, exclusive of that at the Technical Institute in Bombay which is about to be closed, it is evident to the Directors that there will not be room in Madras for two installations of metal-working machinery. The Directors, therefore, respectfully request that Government will make an early declaration of the policy it intends to adopt in this connection.

Matters are at present at an *impasse*, for although the Directors believe that the time has now arrived for making extensive purchases of machinery, it would obviously be most unwise for them to do so if Government were to take a similar step, as there is at present not sufficient demand to keep two outfits in full work. It is presumed the machinery ordered by Government is required to educate the native workmen in its use, and the Directors would here reiterate a proposal previously made that they are prepared to entertain a certain number of apprentices and to place their workshops at the disposal of instructors and classes, and in every way to assist Government in the encouragement of tuition in local industries.

Dated Cawnpore, the 12th October 1908.

From—A. D. PICKFORD, Esq., Assistant Secretary to the Upper India Chamber of Commerce,

To—The Secretary to the Government of the United Provinces.

THE attention of my Committee has been drawn by certain members of the Chamber engaged in the leather industry to the competition established by the Department of Industrial and Technical Inquiries, in the manufacture of chrome leather goods which appears to be increasing to an extent that is evidently regarded with apprehension by private manufacturers.

Accompanying this representation is copy of a circular which, it is stated, has been forwarded by the said department to all Regiments, Volunteer Corps,